Preface

Welcome to the second edition of *Negotiation: Moving From Conflict to Agreement.* We are excited to present this updated version, which is based on feedback from instructors and students and which integrates a great deal of new knowledge and research on negotiation.

This book was conceived due to our combined experiences of having students who *enjoyed negotiation class* but weren't becoming *better negotiators.* No matter the level of the student, they would get involved in in-class negotiation exercises but would seemingly struggle in their own personal negotiations. They could tell what a tactic was, but in the heat of the moment, with emotions surging, they struggled to implement that tactic.

The problem, of course, is that negotiations don't happen according to textbooks! They are not nice, neat, clean affairs where only one concept is in play or one tactic is used at a time. Negotiations are comprised of a set of interdependent moves or behaviors that fit into a large, complex picture. Students seem to grasp the moves if discussed independently—for example, how adding an issue to the negotiation might facilitate the creation of value—but fail to understand the interrelations and larger context, such as the conditions under which adding an issue to the negotiation might be more or less likely to work.

Take the simple example of that specific negotiation tactic, *adding an issue*, which is typically taught as an integrative tactic that can be used to create value. Adding issues "expands the pie," allowing negotiators more options to be creative in negotiations. However, this gives budding negotiators an overly simplistic, and unfortunately unrealistic, view. What is more difficult to convey to students is that, depending on the parties and the state of the negotiation, adding an issue can mean different things and lead to different outcomes, for example:

- It can show empathy by demonstrating that you are willing to talk about something *they* care deeply about.
- It could be a deceptive way to take advantage of someone else's uncertainty about what issues are on the table.
- It might make someone else uncomfortable if they are already overwhelmed by the complexity of the negotiation.
- It can be used to help someone save face in the negotiation and ultimately say yes because they are thinking, "At least I got this."
- It, if the other side believed it was permanently off the table, can lead to feelings of anger and distrust.

A student may not realize these possibilities when the tactic of adding an issue is confined to discussions of integrative negotiation and creating value. A similar point can be made for using BATNA, forming a coalition, asking questions, and other tactics.

We want students to wrestle with the underlying psychology of negotiation, so they can diagnose not only what a tactic is but why it worked or why it didn't. Our goal here, while covering the main concepts of negotiation, is to flip the discussion so that students start by analyzing *why* things happen and then focus on understanding *what* things happen. If students can grasp these underlying concepts (*why* negotiators behave and think the way they do) in addition to the more specific negotiation tactics (*what* negotiators do), they will hopefully have a stronger conceptual base by which to understand the range of behaviors and outcomes that occur in negotiation.

Why Choose This Book?

The main framework for this book compares *understanding* and *convincing* approaches to negotiation. When negotiators approach conflict situations, whether a contract negotiation, an interpersonal situation at work, or a vacation, they think first and foremost about whether they are trying to *understand* more about the other side to craft a deal or whether they are trying to *convince* the other side of something to craft a deal. Understanding opens the door to a whole range of concepts and tactics regarding creativity, creating value, and collaboration, whereas convincing opens the door to a range of tactics around argumentation, power, and leveraging uncertainty. The reason this framework is so powerful is that telling a student to *create value* can fail to help them understand how they are approaching the negotiation in the first place. Indeed, one of the most common comments we see among new students is (and this is a direct quote):

"I want to approach this negotiation with understanding by initially providing my thoughts on what we should do and why."

This is obviously incorrect. This student wants to *understand* but is acting in ways that are *convincing* (in this case by providing their own arguments early in the negotiation). Comparing understanding and convincing allows us to engage with such students on how they are *thinking* about conflict and how that is translating (or not) into tactics that will serve their ability to get the most short- and long-term value.

We structure the book's table of contents around the lived experience of the actual negotiator, starting with the background or *prelude* to negotiation, continuing with the *context* of negotiation, and finally getting to the process, or *dance,* of negotiation. We structured the book this way so that it is intuitive to the naïve negotiator who is looking to understand what is happening in their negotiations. This is not a book only to learn about the research in negotiation (although a great deal of research is presented); it is a book to facilitate a better understanding of the complexities of negotiations so that students become better negotiators and ultimately obtain more value!

Take, for example, the chapters in Section III of the book on the negotiation dance (Chapters 7–14). You will notice that we begin each chapter with a discussion of the *underlying concept*.

We then weave in negotiation examples (both fictional illustrations and real-world examples) to demonstrate how that concept does or does not work in various situations. For example, in Chapter 7 we talk about reciprocity, in Chapter 9 we talk about identity, in Chapter 13 we talk about opportunity costs, and so on. We've found that our students benefit from knowing why and how certain tactics work, not only what they are and/or how to use them. This allows students to make connections between chapters as well, so they are not labeling negotiations as being *only* about creating value, or *only* about power, or *only* about BATNA. In the real world, negotiations are about many of these things simultaneously.

As you look closer at the table of contents, you may notice chapters or topics that are not traditionally associated with a negotiation course. We include an entire chapter on intangible interests (Chapter 9), for example, where we delve into issues such as identity and saving face. Why? Issues related to identity are often very much in play when negotiations are happening. Identity helps us explain why someone might get defensive when you try to negotiate a particular issue or why someone avoids having a negotiation with you about a certain topic.

You will also see that we use many nonwork examples in addition to work examples of negotiation. Why? Negotiation is everywhere! Any time someone has conflict that is interdependent with someone else, that person has the opportunity to negotiate. We purposely tried to put as many different types of examples of negotiation in the book as possible so that students come away with a broader understanding of conflict management and resolution, not only of formal business negotiations.

What's New in the Second Edition?

- Sage Vantage, new for the second edition, offers role-playing simulations and video activities on key concepts.
- A new three-part framework moves from the foundation of negotiation, to the context of negotiation, to the negotiation dance.
- Each chapter has been revised to align key learning objectives with major section headings to ensure consistency between text content and assessment.

There is a new chapter on negotiation mechanics (Chapter 4). This chapter covers information about the stages of negotiation, different popular types of negotiations (including negotiating with the help of a third party, negotiating in teams, multiparty negotiation, and negotiating through agents), and the logistics of negotiation such as where and when to meet.

Chapter 6 on culture has been extensively revised to incorporate recent research findings and insights from management scholars.

We have added a new dedicated chapter on emotion (Chapter 8). Emotion is such a critical part of negotiation and negotiator behavior that we felt it was critical to discuss the research in this area as well as tactics related to expressing and managing emotion.

We have added a new supplement (Supplement D) listing the negotiation tactics covered in this book. This can be a helpful tool when planning for negotiation so that you do not have to comb through each chapter to find the tactics.

Throughout the book, we have updated and diversified many of the negotiation examples to make them as inclusive and current as possible. Special attention has been paid to diversity in scenarios and characters that students can better relate to; heightened gender and age sensitivity in the contexts of power and culture, additional coverage of international negotiation, and enhanced coverage of public and nonprofit business sectors. This was facilitated in part by the addition of an amazing negotiation scholar, Jimena Ramirez Martin, to the author team.

How Do I Integrate This Book Into My Current Course?

Hopefully easily! You will find familiar terminology in this book that you would find in any negotiation book—creating and claiming value, BATNA, logrolling, anchoring, mediation, and the like—which makes any change much easier to bear. You also do not have to use the role-plays provided here—you can easily use the current role-plays or cases you are using along with the chapters in this book. What we are encouraging is a discussion around *why* tactics work or not so that students understand the more complex dynamics of real-world negotiations.

Where Are the Chapters on Integrative and Distributive Bargaining?

The content is here, but it is placed with the concepts that underlie integrative and distributive bargaining. These terms do well in describing negotiations *after the fact*, but we have found they are not so helpful for students planning for negotiations because in almost *every* negotiation there are both integrative and distributive elements. Our experience is that when you label negotiations "integrative" or "distributive," it puts students in the wrong mind-set. We want students to see the underlying forces at play in every negotiation and understand when and why tactics such as reciprocity or using intangible interests or leveraging formal power are likely to work or not. This is why we rely on *understanding* versus *convincing approaches* (Chapter 2) through the book. This captures the mind-set of the negotiator going in—are you trying to *convince* the other side of something to get value, or are you trying to *understand* the other side to get value?

Can I Use the Chapters Out of Order?

Of course! We've designed and labeled the chapters so that, besides Chapters 1 and 2, they are not overly dependent on what has come previously. Some instructors will want students to read about planning first (Chapter 3); others may want this last, once students know a great deal of other material. Some will want to begin with context, such as with individual differences like gender and personality (Chapter 5) or culture (Chapter 6), and others may want to leave this until late in their courses. Some like starting with more *convincing* approaches such as best alternative to a negotiated agreement (BATNA; Chapter 13) and power (Chapter 12); others may want to start with more understanding approaches such as reciprocity (Chapter 7) and intangible interests (Chapter 9). All of these uses are possible.

What Is the Best Way to Teach and Learn Planning (Chapter 3)?

This is perhaps the most significant divergence between this book and other textbooks. What we provide in Chapter 3 is a thoughtful way for any negotiator to prepare for a negotiation. This chapter comes with many examples and worksheets that students can use. We give our students Figures 3.1 and 3.2 on the first day of class. They won't know all of the terminology yet, but it shows them where they are going. By the midpoint (depending on pace) of the class, they should be able to do most of the plan. By the end of the class, they should be able to do an entire negotiation plan. We've found that it is through planning, as a complement to the anxiety-producing doing, that the real learning of negotiation takes place. Planning gives students a structured space to think through the psychology of the negotiation and script out what they might do and say and, more importantly, *why*.

What About Role-Play Exercises?

We have provided seven role-play exercises as part of this text's instructor resources, which are yours to use with this book. These have been designed specifically to highlight the concepts in each chapter while also building on the previous chapters. Each one comes with its own teaching note.

What About Ethics?

Ethical questions and debates are an important feature of learning about negotiation. Essentially, because you *know* about a negotiation tactic does not mean you should *use* that tactic. This comes up for instance quite noticeably in Chapter 11 on uncertainty: One negotiator might be privy to information that the other is not. Whether or not they use that information to leverage value from the other side could be completely ethical, questionable, or completely unethical depending on the information and context. Because the discussion of ethics is closely linked to these concepts, we consider the ethical implications of tactics and provide Reflecting on Ethics reflection questions at the end of most chapters. By emphasizing ethical issues throughout the book, our goal is to have students understand that ethical concerns do not exist in isolation but rather are always *potentially* present in negotiations.

How Can I Use the Supplements at the End of the Book?

The first supplement, on negotiating a job, is material students often ask about. This can be assigned wherever in your course you are most likely to talk about job negotiations. The second supplement is a series of brief cases and discussion questions that can be used in a number of chapters as homework or for in-class or online debate. The third supplement is a longer case designed to aid in the integrated teaching of negotiation. That is, most negotiations involve multiple concepts, tactics, and 'other elements, and this case touches on almost *every* concept from the book. We designed this to be a longer individual or team assignment where students have to analyze multiple negotiation concepts at the same time. Included in this supplement are suggested discussion questions from *each chapter* of the book. The final supplement is a list and description of each of the negotiation tactics discussed in the book.

Structure of the Book

Part I: The Prelude to Negotiation

The first three chapters represent an introduction to the study of negotiation and fundamental material basic to understanding the science of negotiation. The third chapter presents a framework to plan for negotiation.

- Chapter 1: This chapter provides an overview of how to think about negotiation, including the reasons for negotiating and some of the main mistakes negotiators make. The goals for this chapter are to understand generally why individuals should negotiate and also why individuals struggle with negotiating.
- Chapter 2: This chapter follows the traditional saying: "You need to walk before you can run." We use this chapter to teach many of the fundamental terms and concepts central to all negotiations, such as interests versus positions, issues, resistance points, creating and claiming value, and so on. We also introduce the idea that some negotiation tactics are more centered on convincing others, whereas others are more centered on understanding others. This chapter contains background on negotiation ethics.
- Chapter 3: We walk through a negotiation plan in this chapter, including preference tables, bargaining mixes, and anticipating negotiation dynamics. This chapter includes a planning worksheet (see Figures 3.1 and 3.2) for students to work through as they prepare for their own negotiations.

Part II: The Context of Negotiation

Chapters 4, 5, and 6 discuss features of negotiations that are important for understanding negotiation contexts. It is through the knowledge of why people react and behave the way that they do that students will be able to truly understand what happens and, more importantly, why it happens in negotiation. Knowing why makes deciding what to do easier and more effective.

- Chapter 4: This chapter focuses on what we call the mechanics of negotiation and includes how and when negotiations unfold. We dedicate space to speak to the importance of the prelude—the time before the negotiation when a lot of the negotiation takes place—before moving on to other important logistics, such as communication technology, and different negotiation structures, such as mediation and negotiating in teams.
- Chapter 5: This chapter covers individual characteristics such as personality, gender, as well as other differences, such as knowledge, skills, and abilities. We talk through the research in these areas as well as how to anticipate negotiation challenges based on these differences.
- Chapter 6: This chapter describes how culture affects negotiation, including defining culture and cultural dimensions, understanding different types of culture, and exploring the implications of cultural differences while providing general advice for dealing with cross-cultural negotiations.

Part III: The Negotiation Dance

Chapters 7–14 represent key negotiation concepts, moving generally from understanding to convincing, as shown in Figure 1. Specifically, Chapters 7–10 are focused more on how to understand others to obtain value, whereas Chapters 12–14 are focused more on how to convince others to obtain value. Chapter 11, on uncertainty, represents both because to use uncertainty to convince others requires an understanding of what they know or how they are thinking about the negotiation.

- Chapter 7: This chapter focuses on reciprocity, one of the most fundamental ways to obtain value in negotiations. Many of the tactics covered in this chapter are the tried-and-true tactics of what you might think lead to integrative negotiations.
- Chapter 8: This chapter focuses on how emotion affects negotiation. We start this chapter with defining affect emotion and the underlying processes of emotional contagion and emotion regulation. We explain how emotions affect negotiations and discuss tactics that leverage emotions and help control emotions.
- Chapter 9: Negotiators don't care only about things; they also care about how they are treated and how they are seen. In this chapter we take this idea that negotiators have

intangible interests and discuss the source of such interests. We explain why identity and saving face matters, why individuals feel threatened, and what negotiators can do to manage their own and others' egos.

- Chapter 10: In this chapter we explore the importance of interpersonal relationships. Negotiations happen in the context of relationships, so we need to understand trust, liking, and other relationship dynamics that are bound to help or hinder negotiations.
- Chapter 11: Negotiations are about making decisions in the context of incomplete information. We use this chapter to explore these ideas, such as what happens when we have uncertainty about others, ourselves, issues, or anything else in the negotiation. Knowing this uncertainty dynamic in negotiations allows for many opportunities to get value from others in negotiations.
- Chapter 12: This chapter is a discussion of power. The tactics here reveal how to convince individuals to give more as a function of control of resources, positions, and authority.
- Chapter 13: One potential source of power comes from one's alternatives, typically discussed in negotiation as one's BATNA. Given the centrality of this concept in almost every negotiation, we devote an entire chapter to this idea.
- Chapter 14: The more work you put in, the more you care about your negotiated outcomes, and the more likely you are to meet your goals. We devote this chapter to goals and motivation, and we provide an understanding of how negotiators might be more or less motivated to be persistent in reaching outcomes.

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Chapter 1: Defining Negotiation

Chapter 3: Preparing to Negotiate

Chapter 11: Ethical Challenges in Negotiation

Chapter 13: Negotiation Terminology

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Chapter 6: Cross-Cultural Negotiation

Chapter 7: Integrative Negotiation Strategies

Chapter 9: Negotiation and Individual Difference

Chapter 10: Negotiation and Conflict Management

Chapter 12: Negotiating Salaries and Job Offers

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- The **instructor's manual**, which offers a wide range of customizable teaching and learning content for all chapters, including these:
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- **PowerPoint® slides** that offer a flexible, accessible, and customizable solution for creating multimedia lectures
- **Tables and figures from the book**, available to support lecture preparation and class discussions

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Chapter 1

What Is Negotiation?

Learning Objectives

1.1 Recognize negotiation potential and develop examples.

1.2 Understand mental models in negotiation and begin to apply the mental models to common mistakes in negotiation.

1.3 Explain the common mistakes in negotiation and why each mistake impacts how negotiators obtain value.

Negotiation is both art and science. It is art in that there are many different ways to accomplish the same goal, style matters, and ability increases through practice. It is a science in that much of negotiation operates systematically and with regularity, and you can formalize the process if you pay attention. These regularities provide knowledge that will enable you to explain, predict, and control how negotiations will proceed. The more adept you become in the science of negotiation, the more comfortable you will be in exploring different ways to negotiate (i.e., the art of negotiating).

To understand, access, and use scientific knowledge about negotiation, you must understand what a negotiation entails in a precise and sophisticated way. Your gut instinct is not enough – people need negotiation advice and negotiation experience to improve.[1] Precision comes from using terminology that is clear and specific in meaning. Learning such an analytical framework is a significant challenge because negotiation is something most people have had some experience with. Therefore, the terms we will use (e.g., a negotiation *issue*), as well as the concepts (e.g., compromise), will be things that are likely familiar to you. However, your knowledge of what these concepts are might be imprecise at this stage. Clarifying what these terms mean is central to this book. For instance, an *issue* in negotiation is a specific item that you are trading or negotiating over (e.g., salary), not just a general concern or problem. Similarly, compromise, contrary to folk wisdom, typically exemplifies poor negotiating skill, in that it describes a scenario in which all parties are at least somewhat dissatisfied.

The reason we take so much time to improve your vocabulary and understanding is because folk wisdom and imprecise terminology can work together to support false beliefs about how negotiations work. Take, for example, the dogmatic notion that, in negotiation, "information is power." This belief can make you reluctant to share information with other parties, for fear that others are going to use that information against you. However, in negotiations, often the only way to get what you want is by sharing some information with the other side. This is such a powerful motivation that we will devote Chapter 7 to this dynamic – *reciprocity.* Sharing information builds trust, and trust sets the tone for collaboration in effective negotiations. This habit of always withholding information for fear of losing power is a bad habit that takes work to break.

What Is Negotiation, and Why Do We Negotiate?

1.1 Recognize negotiation potential and develop examples.

One of the first lessons in the study of negotiation is that there are far more negotiation opportunities around us than we realize. Negotiation knowledge should not be reserved for special occasions such as major purchases or career transitions. As we go about our lives, there are likely to be situations that come up on a daily basis that could be resolved more effectively if we applied negotiation knowledge to them. A colleague of ours at the University of Michigan, Dr. Shirli Kopelman, has told us (and shown us) that she negotiates practically everything: discounts when none are advertised, reduced admissions to clubs because "It is Thursday, there is no one at this club, and I am bringing 10 people in." She uses her knowledge in all sorts of situations where people normally do not think to negotiate, and she benefits greatly by doing so.[2] In the workplace, each meeting request, taking on a new role, developing a project timeline, remote work decision, are all potential negotiations. Each of these situations involves potential conflict that could be handled most effectively through the principles described here.

Of course, not all situations can be negotiated. For example, you could not negotiate with the city to dump poisonous waste into the local lake because law (and common sense) forbids this. Similarly, you would probably not try to negotiate with a judge after you were issued a verdict ("OK, I am guilty of reckless driving, but how about instead of a $1,000 fine and 5 points on my record, we go with $500 and no points?"); norms and the threat of punishment make this a bad choice. You may also think it a bad idea to negotiate with a bank robber if you are a bank teller. "I know you want all the money in my drawer, but how about I just give you half and agree not to call the police for 10 minutes?" Negotiation, while potentially successful (as seen in "Negotiation in the Real World"), in this case is quite the risky choice.

Negotiation in the Real World

The Gunman

Confronted by a gunman demanding that he empty the cash register, Subway Sandwich Shop manager Ollice Nettles made a counteroffer: $10 and a meatball sandwich. "This is the first time we've seen a robbery that was negotiated," police spokesman Mike Wright said. Police said the robbery started when a slim, 6-foot, unshaven customer walked into the Subway shop Monday. He ordered a meatball sandwich and went to the bathroom. He returned a few moments later and a clerk waited to take his money. That is when the customer turned robber and announced, "By the way, this is a holdup." The robber then pointed a black revolver at the clerk. She ducked behind the counter and fell to the floor. Nettles, who apparently did not see the gun or realize what was going on, turned and asked the man what he wanted. The robber said he wanted all the money, and negotiations began. Nettles asked the robber if he would accept $10 and the sandwich. The robber replied that he would take no less than $20 and the sandwich, and the deal was done. Police said the thief fled with the money, the sandwich, and two other men who were waiting outside in a gray Pontiac.

Source: Knight-Ridder Newspapers, Spring 1991, Delray Beach, FL.

You can think of **negotiation potential** as the degree to which a conflict situation might be resolved through negotiation. Negotiation is effective when you get more or lose less than you would have if you had not negotiated, and getting more of what you want is *always* the objective when negotiating. To think about negotiation potential, let us first try to define what conditions must exist in a situation for negotiation to happen. We start with the formal definition of **negotiation** as " a social interaction with the goal of reaching an agreement that improves the status quo."[3] If we simplify this definition, we can identify three basic conditions under which negotiation can take place:

1. There is more than one person (it is an interaction).
2. The people want, or seem to want, something different than what they currently have (improving the status quo).
3. The people have to deal with each other in order to reach agreement (interdependence).

To map this on to what is probably the most familiar negotiation scenario, the selling of a car, negotiation involves multiple parties (buyer, seller), the parties have to deal with each other to reach agreement, and both are trying to change something about the status quo (the buyer wants a car, the seller wants a sale). For instance, the buyer can't just say, "I am paying $14,000; now give me the car," nor can the seller say, "You buy this car or else!" Both the buyer and the seller need each other to make the deal happen.

As you will see throughout this chapter and throughout the book, there are a wide variety of situations that fit these criteria, many that we typically don't see as "negotiation." Table 1.1

provides some of these examples. The bottom line is that when you think about what situations have negotiation potential, you need to include any situation that involves multiple parties, desire to improve status quo, and interdependence.

Table 1.1 ▪ Nontraditional Situations With Negotiation Potential

Situation	Parties	Opportunity to improve status quo	Interdependence
Liam is not performing at work.	Liam, Liam's manager	Liam's manager wants high performance from Liam. Liam wants recognition from the manager.	The manager has formal authority over Liam but needs Liam to do the work for the good of the department.
Several university students are working together on a class project.	Students on the team	Some students are more concerned about the grade, some more concerned about learning, others concerned about the duration of team meetings and how much effort they have to expend.	The students need to pool their work in order to produce the final product.
Driver gets a speeding ticket.	Officer, driver	The officer wants the driver to accept the ticket and wants to avoid going to court. The driver doesn't want points on their license.	The officer has the formal power but can be influenced if they think the driver will show up in court and fight the ticket.
Friends have to decide what to do on a Saturday night.	A group of friends	Some care about the location, some care about the price, some care about the music, and some care about the food.	This group may have both social interdependence (want to stay together) and logistical interdependence (only one person has a car).
Politicians need to pass laws.	Constituents, legislature	The politicians want to resolve community issues, keep their jobs, and support their political party.	No one can pass legislation on their own.

Situation	Parties	Opportunity to improve status quo	Interdependence
A married couple wants to take a vacation.	Two partners	One wants to save money and relax alone; the other wants to go somewhere exclusive with friends.	If one "wins" and the other "loses," resentment will occur, hurting the vacation (and the relationship).

Although many situations have negotiation potential, some do not. Figure 1.1 presents a flowchart to help decide. This is also useful for drawing boundaries around the situations that are and are not responsive to negotiation knowledge.

To determine the potential for a situation to be resolved via negotiation, we first consider the nature of the interdependence among those involved. **Interdependence** means that parties require interaction to accomplish their goals. Interdependence can take many forms. Examples of social interdependence (want to be together) appear in Table 1.1 along with logistical interdependence (need to work together), which can take multiple forms. No matter the type of interdependence, what is important here is that interdependence implies a constraint that is manifest in the other parties. In its simplest form, you cannot get what you want without someone else's participation. If you could, then there would be no need to negotiate.

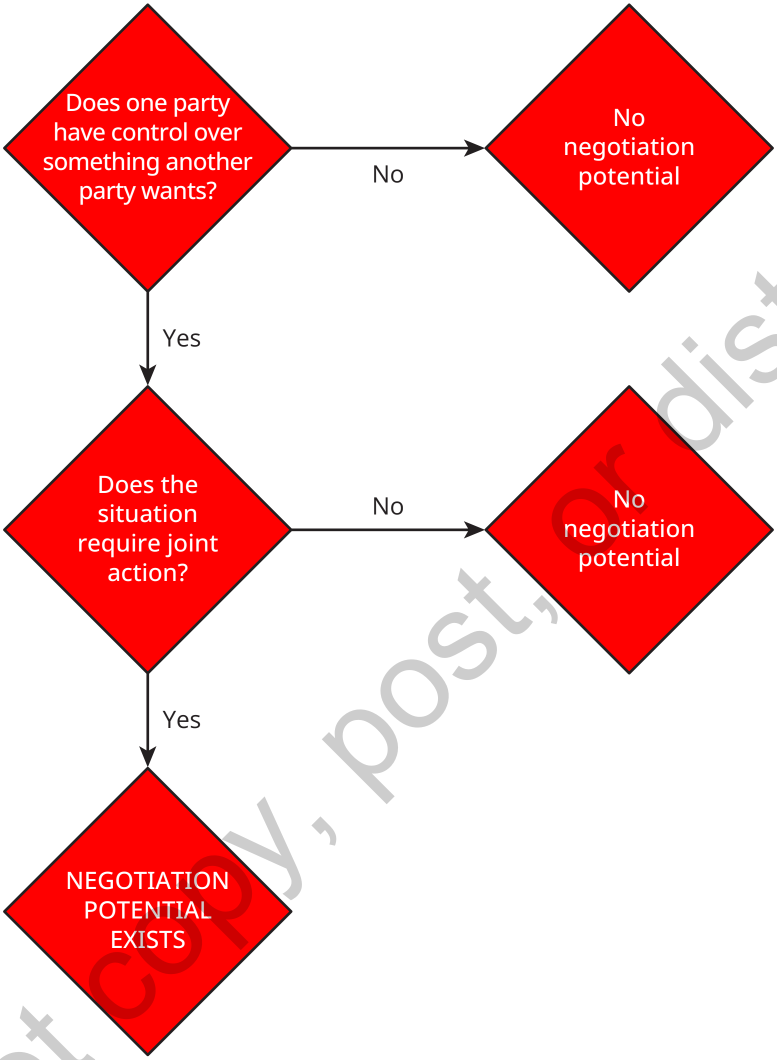
You may want to be paid more, but if your boss is not the person who decides salaries in your company, you have no need to negotiate with them on this matter. This is important to think about because if you spend time negotiating with someone who cannot change the outcome, you're wasting your time. The reverse is true as well: Involving people who do not care about a particular outcome wastes both people's time. The bottom line is that if negotiation cannot help you do better than you could have working alone, you should not do it; in other words, you can do better through joint action than you could do otherwise.

Note that in many situations it may not be *obvious* whether you need someone else's participation. For example, a married individual might want a new 100-inch TV, and think to themself: *I earn more than my partner, so I'll just buy it.* Can they technically get out their credit card and order the TV without their partner knowing? Yes. But that doesn't mean there is not negotiation potential in this situation. By involving their partner, this individual has the potential to increase the value of the "deal" beyond just getting the TV.

Summary of Why We Negotiate

Negotiation is possible in situations where there are multiple actors who want different things, but they need each other to get them. It also requires that the situation will involve adjustment of some sort so that they can resolve whatever conflict is limiting what they can get. Negotiation potential is realized depending on whether one can adjust the situation to limit or remove the conflict. This adjustment is the result of influence. So, if you know you should negotiate and you know the number of situations that could be effectively resolved via negotiation is endless,

Figure 1.1 ▪ Is There Negotiation Potential?



why don't you negotiate more often? And further, why might you be *uncomfortable* negotiating? This is probably the main reason you are reading this book and/or taking a negotiation class. We'll highlight a few core challenges to negotiation and summarize some of the most common negotiation mistakes.

The Mental Model of a Negotiator

1.2 Understand mental models in negotiation and begin to apply the mental models to common mistakes in negotiation.

Mental models are beliefs people hold about how things work in the real world.[4] They are cognitive representations (i.e., existing in your mind) of situations you encounter. Think of them like a rule book: When you go into a store, meet a person, go to class, or any other situation you can think of, there are rules for behavior. Those rules regarding what to expect and how to behave are contained within your mental model of that situation. Mental models also help you organize all the information stored in your mind. As will be discussed in Chapter 11, people can only handle so much complexity and uncertainty, and this is why information is organized in mental models. These cognitive structures allow you to simplify the world. Every individual has mental models, and they are different for everyone.

For a simple example of the importance of mental models, consider membership in a team. In a team discussion you may find yourself agreeing with the views expressed by Lisa. This could be because Lisa fits into your mental model of how a "competent" team member looks or behaves. If, on the other hand, Nirish shows up to a team meeting in shorts, flip-flops, and a Hawaiian shirt, you might question his ability to be a productive team member. That is because your mental model of someone who is believable includes certain characteristics. Note that these assumptions may have nothing to do with Lisa or Nirish's actual skills.

Let's do a short exercise to further expand on this idea of mental models:

- What emotions or feelings come to your mind when you think of negotiating for a car?
- What emotions come to your mind when you think of trying to negotiate which movie to see with your best friend?

If you are like most people, answers to the first question might include words such as *difficult, anxious, distrust, nervous*, and so on. Similarly, your answers to the second question might include words such as *friendly, trust, happy,* and so on.

Mental models explain why these answers diverge so drastically. Your mental model of a car negotiation is quite different from a negotiation about which movie to go see. When you negotiate for a car, dishonesty may be what you are actively thinking about in that negotiation and what you expect from the salesperson. Everything that is said or done in that negotiation is filtered through this lens of dishonesty: *Is what they say true?* This mental model helps you determine what is relevant or not in that negotiation. You might be continually asking yourself: *Does this piece of information help me figure out whether the salesperson is dishonest?*

You may be thinking: car negotiation = difficult = adversary = no trust and choosing movie = easy = friend = trust. Why is choosing the movie so easy? Because you are not thinking of it as a negotiation! You and your friend have different preferences and might want different things, but you are able to navigate that conversation quite easily because you are not worried that your friend is going to take advantage of you. You also might be thinking about the likelihood of success in each of these negotiations, assuming that the car negotiation is far more likely to fail than the movie negotiation, causing you stress. While the car negotiation might seem more difficult, it's quite similar to the movie negotiation. Both situations involve conflict. Both involve two parties. In both negotiations there is the possibility of negotiating other issues. In the car negotiation you might negotiate a warranty, a payment plan, and a service contract. In the movie negotiation you might negotiate who pays for popcorn, who chooses the next movie, and who decides where to eat afterward. Yet our minds ignore these similarities because our mental models of these situations are so starkly different.

So what? Why does it matter that these "negotiations" have similarities? As you will learn in this book, when you negotiate with the car salesperson in a similar way to how you might negotiate with your friend, you increase your chances of getting more. Similarly, when you treat your friend like an adversary, you decrease your chances of getting more.

We talk about mental models of negotiating here because if you want to understand *how* you negotiate, you have to understand how you *think* about negotiating. Similarly, if you want to understand *why* you are struggling to obtain value in a negotiation, you have to understand how the other side is *thinking* about that negotiation. Mental models represent how we categorize situations, relationships, and people, and, consequently, drive how we interact with one another when trying to solve conflict.

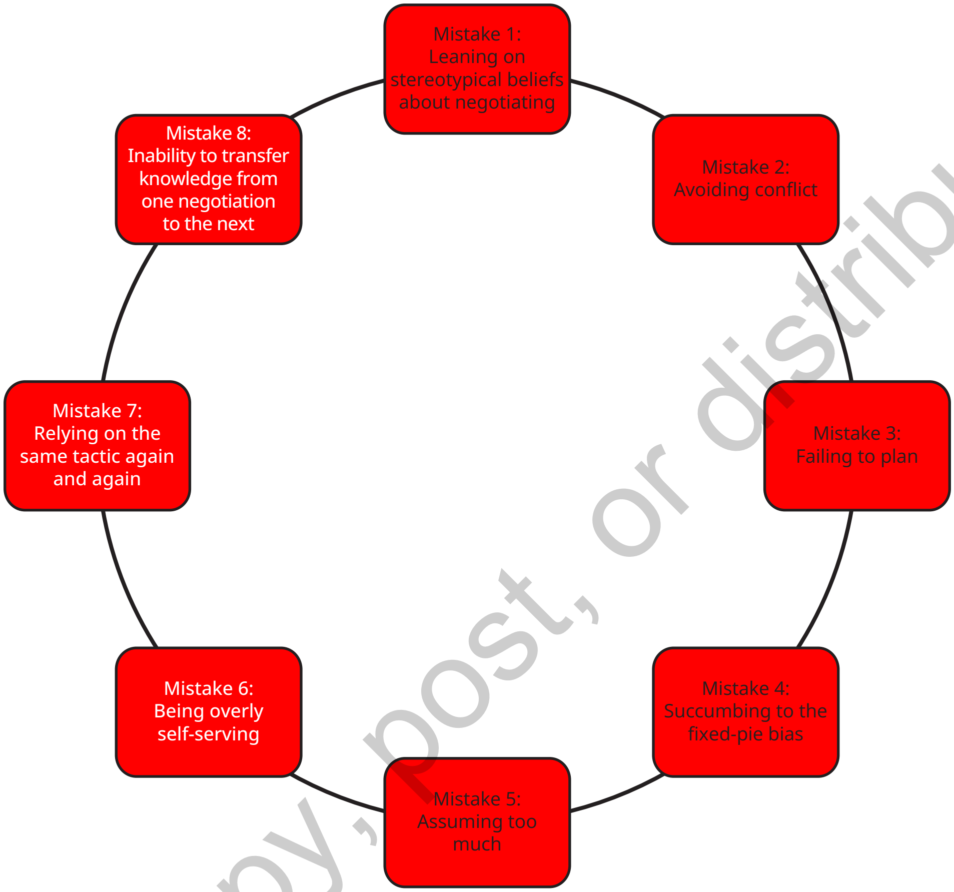
Now that you have an understanding of mental models, we move to how mental models are linked to some of the most common mistakes in negotiation. These mistakes are based on *errors* between how you see the world (your mental model), and how the world actually is. We discuss these mistakes here so that you can start improving your negotiation behavior immediately, even before we get to the explanation of negotiation basics (Chapter 2), negotiation preparation (Chapter 3), and many other aspects of negotiation in later chapters.

Common Mistakes Made When Negotiating

1.3 Explain the common mistakes in negotiation and why each mistake impacts how negotiators obtain value.

In this section of the chapter we highlight some of the common pitfalls to effective negotiating (Figure 1.2). Mistakes are not just in what you *do* during a negotiation; mistakes are also about how you *think* about negotiation and conflict in general. Before we get to the mistakes, we want to help you understand why you might be primed to think about negotiations in certain ways that impede your ability to obtain value.

Figure 1.2 ▪ Why Is Negotiation So Difficult?



Mistake 1: Leaning on Stereotypical Beliefs About Negotiating

You might think that you know what it means to "successfully" negotiate. Perhaps you feel like you "won" in your own past negotiations, or have witnessed hard-bargaining, or feel like you always get what you want. Unfortunately, you are likely wrong in that belief. Why do you feel like this? Part of the reason is that you have a motive to feel like you know what a successful negotiation looks like—your own ego! Negotiators want to feel good about themselves and their negotiation outcomes because we negotiate over things that are important to us – it's no fun feeling like you "lost." It has even been found that many negotiators who feel happy at the end of their negotiations did not negotiate particularly effectively.[5]

Here are a few common misperceptions that many negotiators have that contribute to this. First, **compromise**, which is splitting the difference on a negotiated issue, is not (usually) good negotiation. Compromise is a strategy by which issues can be resolved quickly and (often) with the perception of fairness, in that both sides have given up something. Using compromise beyond such situations can mean you've left value on the table.

Second, you may believe that preserving the relationship with the other side is a particularly effective indicator that the negotiation was a success. Unfortunately, though, research has found that even spouses and other partners who deeply care for each other are poor negotiators when it comes to adding value.[6] Why? Because people tend to lower their aspirations when they negotiate with someone they care about.[7] It takes dedicated intent and a set of strategies to find and create value in negotiations. Caring for the other person is not enough if you do not understand the skills of negotiation.

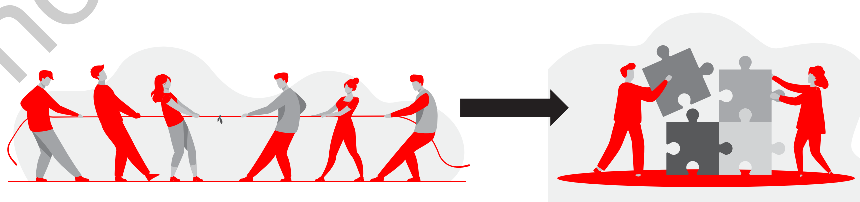
Third, you may think that hard-bargainers are great negotiators and that you should emulate such individuals. Negotiation is not about power and threats, although such factors can play an important role. Again, the research is very clear that such aggressive tactics destroy rather than create value, not just in the short term but also in the long term, because you may be harming important relationships.

Mistake 2: Avoiding Conflict

We have already defined negotiation in terms of conflict that requires more than one person to resolve. To negotiate means to deal with, rather than avoid, conflict. Unfortunately, it has long been acknowledged that avoiding conflict is often a preferred strategy to solving conflict.[8] Avoiding conflict, is, well, easier, at least in the short term. No awkward conversations, no fear of losing, no worry about lack of confidence. If you can put off that conversation, maybe the issue will resolve itself on its own. This is obviously a mistake because if you avoid conflict, you can't negotiate. Similarly, you can choose to negotiate but *not engage in either understanding or convincing.* You essentially let others dictate the terms of the negotiation without asking questions, probing interests, planning, and using tactics.

Part of the goal of this book is to help you feel more comfortable with conflict situations. After all, conflict need not be about fighting or competition. Rather, conflict is about differences. If you can realize the nature of those differences and respond accordingly, you can get more. It's about seeing negotiation not as a tug-of-war, which we'd all like to avoid, but rather as a puzzle, which could even be fun (See Figure 1.3)!

Figure 1.3 ▪ Negotiation Doesn't Have to Be a Tug-of-War



Source: Adapted from iStock.com/SurfUpVector and iStock.com/GrafikLab

Why do we try to avoid conflict? Two common reasons include differences in individual personality as well as differences in culture and the context of the negotiation. It has long been established that individual differences, especially in personality, can have effects on the process and outcomes in negotiations,[9] and the tendency to avoid conflict is one such individual difference.[10] A person with a personality characterized by high levels of conflict avoidance is going to react to negotiation situations in very different ways than a person with a personality characterized by low conflict avoidance. For example, an aggressive opponent in a contentious dispute will likely provide an unpleasant and uncomfortable experience for the person with a relatively high conflict avoidant personality, whereas it might be seen as an exciting and invigorating challenge by the person who scores very low on measures of conflict avoidance. One of the most common things we hear from students when we ask them what they are hoping to gain from the course is a desire to be less afraid of negotiating and to be more assertive and proactive in a negotiation. (We discuss personality in more detail in Chapter 5.)

Culture is the other possible reason some people tend to avoid conflict rather than seek a negotiated solution. A recent approach suggests cultural differences in the expression of open disagreements. For example, cultural norms in France suggest that direct confrontation is appropriate whereas cultural norms in Japan suggest that avoiding confrontation is appropriate.[11] We discuss cultural differences extensively in Chapter 6. The ways in which conflict is viewed and fitting methods for conflict resolution can vary greatly from culture to culture.[12] In some cultures, conflict is accepted as a natural state of affairs and consistent with individualism and even aggressiveness, whereas in other cultures there may be strong expectations that overt conflict (especially public conflict) should be avoided and minimized for the greater collective good.[13]

Negotiation in the Real World

Mental Models and Mistakes

This is from a recent student talking about mental models and mistakes in negotiating. "I recently walked away from a $150,000 contract renewal because of the mistakes of succumbing to the fixed pie bias, being overly self-serving, and assuming too much. I assumed enforcing contract terms for compensation upon the client's breach of project duration was the only issue to negotiate and that the client was trying to cheat us, something I saw as a red flag for continued engagement. Had I known what I have now learned, I would have approached the negotiation differently." *The mental model* of client as potential "cheat" inhibited this person's ability to think and act differently in this negotiation, sacrificing significant value.

Mistake 3: Failing to Plan

Many people begin negotiations with no plan beyond relying on their instincts and hoping for the best. Expert negotiators plan, and they may spend much more time planning than actually negotiating. They plan because they need to think about what they want, what the other side is likely to want, and what possible options may satisfy those needs. Many have noted the importance of this phase of negotiation, whether we call it the "prelude" to negotiation, pre-negotiation, or negotiation planning.

When there is no negotiation plan, instinct can lead to several problems for negotiators. They fail to see outside of standard solutions to negotiation problems (see Mistake 8). They also fail to think about the other side other than in a stereotypical way (see Mistake 5). Earlier we talked about negotiating as a means to get what you want. While there are many ways to do this, you are not going to be able to come up with these options if you cannot use different tools to get what you want. You cannot think flexibly if you are in the middle of arguing for what you want while trying to outwit the other party. Consider the following scenario:

> Betsy was interning at AwesomeCorp in her spring semester. She was getting ready to graduate and was a little worried about finding a job. To Betsy's surprise, her manager called her in to his office and said, "We really like you and we'd like to hire you after you graduate, but we need to get your commitment now. So what salary were you thinking?" Unprepared, Betsy had no idea what to do. She blurted out a reasonable-sounding amount, $75,000, to which the manager said, "Well, that may be just a little high. How about $65,000?" They agreed on $70,000.

At first glance, this may seem like a complete success. Betsy got a job, and the salary was a compromise between her and the manager's offer. Now let's look closer. First, was Betsy creative? No; the only thing they negotiated was salary, even though there are many other issues that could have been negotiated.[14] Now that she's accepted the job offer, it may be hard for her to get other things. We see that she is caught off guard and she is excited because she will have a job, but this works against her. Does she know if $75,000 is a good starting point? Odds are against it. This kind of thinking under pressure is not likely to yield good answers in people without much practice. What should she have done? She should have said, "Wow, this is great; thank you for the offer. Let's set up a time to hammer out the details." She could have had more time and mental space to research and think about what she wanted. The fact that she did not is also probably due to stereotypical thinking—Betsy assumes incorrectly they need to settle this now. Of course, they do not. If the boss wants to hire her, then it is completely reasonable to discuss the offer more formally so that Betsy can get objective data on market prices, secure other offers, and so on.

When you plan, not only can you be a more creative negotiator, but planning will help you identify the issues to be negotiated and *prioritize* so that you know what is most important and where tradeoffs can be made. You can also understand more ways to productively engage the others with whom you are negotiating. Planning also helps you anticipate problems. You cannot prepare for every contingency, but you certainly can prepare for the likely ones. For example, if you plan to ask for a raise, you might think about how your manager could react. What information do they value? What tactics have others used in prior successful negotiations with the manager? You do this in order to manage the process to a favorable outcome. If your manager is emotional, you can prepare for anger rather than for silence. If the manager is no-nonsense, then you should prepare for them to want you to cut to the chase rather than prepare lots of extra information. You can also prepare for countermeasures to your persuasion techniques. If your manager says, "Why don't you find another job if you think you are worth so much?" it is far better to have a prepared calm response than either shrinking in fear or saying, "Fine, I will!"

Mistake 4: Succumbing to the Fixed-Pie Bias

People use mental shortcuts to simplify thinking in real time. These mental shortcuts are called **heuristics**, which are systematic rules of thumb that we use when making decisions. Heuristics are not necessarily bad, but they can trick us into misinterpreting information that will be used in our decisions. As negotiations are fundamentally about making a large number of sequential decisions (Should I open the negotiation? What should I say? How much should I ask for?), understanding and avoiding the heuristics we use will ultimately make us more effective negotiators.

The biggest error made in decision making is thinking that anything we get in the agreement costs the other side just as much—that is, we assume there is a "fixed-pie" in the negotiation. This is called the **fixed-pie bias (or zero-sum bias)**.[15] This bias causes us to believe that the benefits to one side are equal to the costs paid by the other side; in other words, they always equal zero. You can think about this literally as a pie. Imagine that you and your friend are each sitting at the table and are hungry for pie. Your friend's parent, who both of you know makes great pie, brings over a pie with eight precut slices. The options for dividing the pie thus are set:

- You: 0 pieces; Friend: 8 pieces; **TOTAL: 8 pieces**
- You: 1 piece; Friend: 7 pieces; **TOTAL: 8 pieces**
- . . . and so on . . .
- You: 8 pieces; Friend: 0 pieces; **TOTAL: 8 pieces**

Notice that in each of these possibilities the total number of slices is "fixed" at 8. There are no extra pieces or more pies that can be eaten. The only negotiation here is how to split those 8 pieces between you and your friend.

While most negotiations do not have a fixed number of "pieces," we assume that they do. This is the error we make—the fixed-pie bias. In most negotiations there are other issues to negotiate and, consequently, more "pies" to be added to the table.

We can see in Table 1.2 that negotiations where we fall victim to the fixed-pie bias are very difficult; by nature, they seemingly must have a "winner" and a "loser." Negotiators who fall victim to this bias thus are more defensive and perhaps more likely to give up quickly, attack, or compromise—none of which is an effective strategy. This is also quite prevalent, because this bias has been shown to affect upward of 80% of negotiators.[16] This bias is also notoriously difficult to overcome, even if you know it exists and have experience negotiating.[17]

Table 1.2 ▪ Fixed-Pie Bias

Negotiation	Fixed-Pie	Non Fixed-Pie
Job	Salary is the only issue.	Salary, job start, job title, bonus, moving expenses all need to be negotiated.
Car	Price is the only issue.	Price, service plan, financing, trade-in all need to be negotiated.
Vacation	Location is the only issue.	Location, cost, activities, length all need to be negotiated.

Negotiation in the Real World

The Zero-Sum Game

Amanda Taub of the *New York Times* wrote about U.S. President Donald Trump's approach to political issues in terms of the fixed-pie or zero-sum bias. She points out that many of the negotiations that have taken place between the United States and the rest of the world during the Trump administrations are framed in terms of "winners" and "losers." International trade, international law, immigration—the administration contends that these issues are about who is right, who is wrong, who wins, and who loses, and "every gain comes at someone's expense—one person getting more pie means another gets less." Taub argues that this worldview helps explain why the administration has been more friendly to more autocratic regimes. She points out that one aim of democracy, in contrast, is to forge strategic alliances which involve collaboration and *joint gain*. She writes, "Positive-sum systems of international trade, security, and democracy reinforce one another: It is easier to invest in another country, or rely on goods imported from it, if you aren't worried that war might sever your relations." Such activities have been the foundation of peace and prosperity for quite a long time.

Source: Taub, A. (2025, March 7). The Trump Doctrine: The World Is a Zero-Sum Game. *The New York Times*.

A phenomenon closely related to the fixed-pie bias is that we assume there is conflict when there really is not any conflict. This is known as false or **illusory conflict**. Take, for example, the situation where you are negotiating with a loved one over where to go on vacation. Perhaps you want to go to Mexico, and you assume that your partner wants to go somewhere else. You might approach this negotiation in a very defensive, contentious mode because you believe this is going to be a difficult conversation. Unfortunately, due to reciprocity, because *you* are defensive, *they* become defensive, even though before the negotiation your loved one would have been absolutely fine with Mexico as a destination. You end up fighting about Mexico and choosing a location neither of you would have put first on your vacation destination list. This is called a **lose-lose agreement**, or a situation where both parties agree to something that neither is pleased with.[18]

Mistake 5: Assuming Too Much

One of the mistakes that is particularly damaging to many of the strategies discussed in this book is when negotiators assume something about the person or people with whom they are negotiating. You value money to a certain degree, so you assume they value money in the same way. You don't like vacationing in Florida because of the heat, so you assume others don't like the heat. You think *Star Wars* is a great movie choice, so you assume others like *Star Wars*. These are all potentially damaging mistakes, as they will cause frustration due to misunderstandings. The **false-consensus effect** is this phenomenon, whereby you tend to overestimate the degree to which your own values, beliefs, and attitudes are normal and shared by others.[19] That is, you assume that others think about the world in the same way that you do. Consider the following scenario:

> Paula is a relatively new manager with 10 employees in her accounting department. She has an opening for a new position and wants to hire Danya to fill that role. Danya has told some of Paula's employees and Paula herself that she wants to take the job and is very excited about joining the company. Toward the end of negotiations, Paula asks if Danya is satisfied with the offer, and Danya asks for three extra days to review the offer with her husband and close out negotiations with the other companies she is considering. Paula immediately gets upset, because she would never ask a potential employer for three extra days and feels that anyone asking for more time must not really want to join her team. She immediately suspects that Danya is using her to get a better offer from another company.

What is happening here is that Paula is assuming Danya has the same thoughts and intentions as she does. She becomes suspicious because in her mind her response (were she in Danya's shoes) is the only reasonable response. She fails to understand that Danya really wants to be 100% committed and because her husband works out of town, she needs the extra time so that she can sit down with him and make a decision together. This causes Paula to have a negative attitude toward Danya and the situation, when in reality Danya is simply making sure she is making the best decision.

Another assumption negotiators often make that may not always be correct is the expectation that others will be consistent over time in their behavior and attitudes. Clearly, the better you are at understanding and predicting another party's behavior, the more effective you may be in a negotiation with them. However, when you try to predict behavior in negotiations, you often do so based on the assumption that past observed behavior was determined by personality (which, after all, is relatively stable and consistent over time). For example, Petya assumes that Jonathan is going to be a very tough negotiator because she's seen him negotiate fiercely in the past. Petya is making the mistake assuming that Jonathan's past behavior was based on his personality, which will carry over into every future negotiation. Unfortunately, using this approach instead of trying to predict behavior based on the situational aspects of the negotiation context—such as bargaining positions, alternatives, power, and so on—turns out often to be very inaccurate.[20]

Petya is setting herself up for a difficult negotiation with Jonathan when that may in fact not be the case—perhaps he was just negotiating with someone he didn't trust.

Assuming also creates problems for gaining buy-in with negotiations that involve organizational change. Consider this scenario involving Deb.

> Deb was called in to completely reorganize a 60-year-old privately owned company with 75 employees. It had always been loosely run by three owners, two of which inherited the company from their parents. Due to federal regulations, Deb had to put rules into place, including creating a human resources department. Throughout the process and the daily training that was involved, Deb assumed everyone was just as excited as she was about the changes. However, when it came time to work together, she had zero support and felt nothing but resistance.

Deb failed by assuming the employees were all on board with what she was doing. In the end, nobody was willing to make it work. Had she considered their interests, she would've given herself a better chance of completing the process with them in a mutually agreeable way. This is one reason organizational change initiatives can be thought of as a series of negotiations to get employees on board with the proposed change.

Mistake 6: Being Overly Self-Serving

There are a number of ways in which negotiators are self-serving. First, negotiators fall victim to **egocentrism**, in that we tend to be much more interested in our own interests and needs than the interests of the other party. We see this in all types of negotiations. Take, for example, the contract negotiation of French soccer player Kylian Mbappe in the summer of 2024. He was so interested in playing with the Real Madrid club that he compromised 40 million euros in terms of salary, going from 55 to 15 million euros a year. His egocentrism led him to choose a club with higher status (Real Madrid is a more prestigious club than Paris Saint Germain), even though it turned out not to be great for his play and career.

The tendency to demand more than you would pay for an item is called the **endowment effect**.[21] You may not be objective about the value of your car, house, or the vacation you want to take because people become emotionally attached to things. This can hurt your ability to process information in negotiations because the other party is not going to have the same emotional attachments you do. If you are selling something, it can lead you to make arguments such as "This TV is wonderful!" which really isn't convincing anyone of anything. In the television shows *American Pickers* and *Pawn Stars*, the hosts do an excellent job of managing the endowment effect. In both of these shows the hosts are trying to buy used (potentially valuable!) items from individuals such as bikes, records, jewelry, and memorabilia. Their goal is to buy the items and resell them in their own shop for a profit. This is a ripe environment for the endowment effect, because the individuals selling these items often have emotional attachments to the items. That is, they value the items much more than someone off the street does. This can make them reluctant to sell, which is a problem the hosts must work to overcome. They typically do this by getting the seller to talk about their experience while they show genuine interest.

When we rely on our own experiences and information that we can easily recall, we fall victim to the **availability bias**. When we enter a new negotiation, we draw on what we can remember about similar negotiations in the past. Those could be past experiences with that party or similar past experiences with other parties. If you remember having a difficult car negotiation at dealership X, you might be distrustful of sales staff at dealership Y. Is there an objective reason for this? No, but without other information to go on, we weight our own memories heavily. This anticipated difficulty becomes part of our schema of "car negotiations." The problem with relying on these memories is that it sets your own expectations for the negotiation and can change the other side's behavior. If you expect the other side not to trust you, you will behave as if they don't trust you. The other side will mimic that behavior because they won't believe they can gain your trust. This leads to your initial belief coming true, as you say to yourself: *I knew I couldn't trust them.* Thus your own bias has in effect created reality; this is a phenomenon known as the **self-fulfilling prophecy**.[22]

Finally, we protect our "self" through the **confirming evidence bias**, the tendency for people to seek out and pay attention only to information that confirms their prior beliefs. Consider a job negotiation where the applicant has "fallen in love" with a company. The impulse for the candidate will be to pay attention and overweight information that supports their "love" for the company and not objectively look at any flaws that the company might have. The confirming evidence bias shuts down the learning process, because individuals are no longer attending to information that could potentially help them make a better decision. So they may overweight an event like "Board Game Fridays" (something they like but which really tells them nothing new in terms of how they should evaluate the job) but will ignore the 80% turnover rate (something that may uncover why the job is not so great). The prior belief about the company being great thus has been "confirmed," but in the end once they learn more, they might regret taking the offer.

Mistake 7: Relying on the Same Tactic Again and Again

Part of learning to negotiate involves learning to use various tools, but an equally important part involves knowing which negotiation tools or behaviors, which are called **tactics**, are the best ones to use for that task. Not only should you think about which tactics are right for the negotiation, but you also need to understand why. As usual, there are common mistakes people make when picking them.

The reason for these mistakes is that people use the tactic that is most comfortable rather than the one that is likely to be most effective. For instance, we see over and over again that students in class exercises resort to compromise with their friends, even when they have just finished a lesson on how compromise leaves value on the table in the negotiation. Friends are reluctant to engage in the difficult discussions surrounding negotiation, and they end up stuck in patterns of nonoptimal solutions (and less value) because of the (incorrect) notion that negotiating means the friendship will be harmed. The TV show *Modern Family* (Season 4, Episode 18) presents a nice example of this. Two of the main characters, Claire and Cam, start a business renovating houses together. After negotiating repeatedly about different issues, Cam realizes that Claire employs a technique called "the number dump," in which she tries to confuse Cam by throwing numbers at him. At the same time, Claire realizes that Cam uses a technique called "the trojan horse" in which he asks for much more than what he actually wants, to later *compromise* and get his preferred choice. This has negative consequences for the relationship as both sides feel manipulated.

Negotiators have a tendency to rely on their own past experiences rather than the best knowledge at hand when negotiating. For instance, in one study researchers found that negotiators who had previously reached an impasse were more likely to reach an impasse or an agreement of low value the next time, compared with those who had reached initial agreement.[23] We get stuck in the pattern of poor negotiation behavior and strategy and struggle to change.

Mistake 8: Inability to Transfer Knowledge From One Negotiation to the Next

Negotiations come in an infinite number of forms, so each negotiation you encounter will be unique. Luckily, they will also be extremely similar to other negotiations you will encounter. Although negotiations look different on the surface, they all have basic commonalities that, once you realize what they are, allow you to analyze and/or act in them effectively. Seeing past the surface details can be challenging. Consider the following two situations:

Situation 1: Kai recently finished his MBA and, although he currently has a job, has just received an offer from another company. However, Kai would like to stay with his current employer. The struggle for Kai is that the new company has offered him a 20% increase in salary, an increase that is important to him because he and his wife plan to start a family. In anticipation of his negotiation with his current manager, Kai does extensive research on what other people with MBAs in his profession are making, creates arguments about what he has done and what he could do for the company, and plans to share information about his family and his desire to stay with the company. After a few discussions, Kai's manager offers him a 17% raise, which is more than satisfactory to Kai.

Situation 2: After hearing about the raise, Kai goes home to talk with his wife, Michelle, about the good news. She shares his excitement and says that they should go on vacation, given the extra money and given the fact that, once they have a child, traveling will be more difficult. Kai agrees. Michelle immediately states that she has always wanted to go hiking in the Andes in Peru and is so excited they will finally be able to do this. Unfortunately, Kai had his heart set on Europe and has no desire to go to South America. He is completely dumbfounded at Michelle's enthusiasm and responds by saying, "Uh, yeah, that'd be great." He has totally missed his chance to get the trip of his dreams.

Why has Kai succeeded in negotiation so well at work and failed so miserably at home? Because of the **inert knowledge problem**, the difficulty in transferring details from one situation to the next. Although the inert knowledge problem was originally conceived as a problem of transferring knowledge from educational contexts to the real world,[24] we can clearly see the parallels in Kai's two negotiations.

Kai likely thinks of the problem at work as a "negotiation" and does not think of the conversation with Michelle about vacation in the same way. Why? Are these situations really that different? Both have two people negotiating, in both there is conflict, both are seemingly only about one issue (salary in the first, vacation location in the second), and in both Kai seems to have a good relationship with the other party. However, whereas he engages in effective negotiating in the first situation, which influences his manager, he neglects to engage in these same tactics with Michelle. He agrees too quickly and fails to present his research, explore alternative options, and share his desires. He might now be able to step back after this conversation and revisit the location with Michelle, but that may be difficult and may be something he does not want to do since he has already agreed.

The underlying problem for Kai here is that he has compartmentalized his knowledge of negotiation.[25] That is, what he thinks of as "negotiation" is defined by the context; he is failing to see the similarities between the conflict that he has at work and the conflict that he has at home. As noted by Renkl and colleagues: "The major problem with this kind of knowledge compartmentalization is that in situations where knowledge should be applied, the [negotiator] relies on old, deficient (but nevertheless in some contexts functional) misconceptions."[26] This is the challenge in becoming a competent negotiator, seeing the similarities across situations so that the knowledge you gain about negotiation can be applied in situations where it is likely to be effective. This will lead to more value than will relying on strategies and tactics that, while functional, are deficient.

The inert knowledge problem is pervasive in negotiations. Research by Loewenstein, Thompson, and Gentner showed that MBA students at a top-five business school often failed to transfer what they learned to new negotiation cases, even when the cases were given in a negotiation class one right after the other.[27] These students didn't transfer their learning simply because the surface details of what was being negotiated in later cases were different from the earlier ones. The earlier negotiations were for a computer and a job, the later for a lease. This gave the students the incorrect idea that the underlying problem—how to trade most effectively across a set of issues—was somehow different across these negotiations. Thus, to understand and analyze negotiations, you must know how to see past the surface details into the deep structure of what any particular negotiation situation is really about.

We mention the inert knowledge problem here because your goal as a student is likely to use the knowledge you are learning from this book. If you cannot transfer knowledge from this book to your negotiation class, and then from your negotiation class to your real-world negotiations, we have not made a difference in your negotiation style. So how do you overcome the inert knowledge problem? First, you learn by doing, not just by reading. In most negotiation classes you will have the opportunity to engage in role-play exercises where you can apply the concepts you have read about. This has the effect of cementing your knowledge in a specific domain more permanently than just reading about a concept and hoping that the concept transfers. This also suggests that, if you are reading this outside of a negotiation class, you need to start negotiating to gain experience and practice. Second, there is evidence that a critical comparison approach to cases and exercises is needed.[28] This means that situations and cases should constantly be compared, in order to break the compartmentalization of knowledge. In this book we will constantly provide examples so that you start to see many of the similarities that exist across all situations involving conflict between multiple parties.

To help you in this regard, we have organized the book around how negotiations transpire and work in real life. By organizing it this way, we hope to help you change your mental model of negotiations, as you should start to see features that are common to most or all negotiations. Instead of defining a negotiation by the contextual details (e.g., this is a team-on-team negotiation, this is a mediation, this is a job negotiation, etc.), we hope you instead define negotiations by the negotiation concept being used or that could be used (e.g., future chapters will discuss concepts like reciprocity, power, alternatives, uncertainty, etc.) and the nature of the relationship between the negotiating parties. This will help you see the commonalities. Take the following scenario:

> Jennifer has agreed with Spencer, a salesperson, on a purchase of a new car. They have settled on price, and Jennifer has turned over the down payment check. However, upon final inspection of the car, she notices a very small dent in the front bumper. When she mentions this to Spencer, he immediately goes into the back room of the dealership and disappears for 20 minutes. The dealership is about to close, and they have her check, but she is wondering whether she should try to get out of this deal or force them to fix the car or just take the car as is and take some money off the price.

If you were to assess the features of this negotiation, you might say the following:

- This is a car negotiation between Spencer and Jennifer.
- The car has a dent and Jennifer needs to figure out what to do.
- Spencer is trying to stall, for unknown reasons.

Hopefully by the end of reading this book, you will look at this negotiation differently, perhaps by saying the following:

- This is a two-party, seemingly one-issue negotiation.
- The resource power, based on money, is in the hands of Jennifer (buyer), and she has various options to attempt to influence Spencer (seller).
- The absence of Spencer suggests he is either investigating options for furthering the negotiation or attempting to increase the sunk cost (i.e., time) of Jennifer. How valuable time is to Jennifer, the deal is to Spencer, and the relationship dynamics between the two will determine the value obtained by each side.
- Spencer might want Jennifer to think he is utilizing background power – by "talking" to his manager.
- We lack information about Jennifer's alternatives, but it is likely that she could use this power to her advantage if left with no other recourse by Spencer.

The benefit of looking at the negotiation in this way is that you can compare these types of characteristics across negotiations. The negotiation is no longer about "a car"; rather, it is about two negotiating parties and the dynamics between them.

After finishing this chapter, you might be dismayed at all of the mistakes that you have committed (or think you are going to commit). Do not fret! You can use the self-fulfilling prophecy to your advantage. If you accept the fact that you are susceptible to such mistakes, you can incorporate the material from this text and improve in a number of areas. You can leverage the fact that negotiators do better when they believe that negotiation skills can be learned.[29]

Chapter Summary

By this point you should have a much deeper understanding of not only what negotiation is but also the mistakes that you specifically are likely to make in negotiation. Think about the negotiations that you are likely to be in and why you might be susceptible to different mistakes. Are you taught in your company that hard-bargaining is most appropriate? Perhaps then you are likely to fall victim to Mistake 1. Do you find yourself always assuming that whatever you want is going to be the opposite of what someone else wants? Perhaps you are most likely to fall victim to Mistake 4. Use these mistakes as a resource as you work your way through the rest of the book and identify how you are going to improve as a negotiator.

Discussion Questions

1. We rarely think about the default assumptions we have about how we should negotiate. When we think about these, it can help us to see what our mental models of negotiation are. Think about the following with respect to negotiating for a raise, a large purchase, and to get a friend to do something they do not want to do. In each scenario:
   a. What is the main goal of negotiating?
   b. What actions should you take in order to achieve that goal?
   c. What parts of the situation do you need to change in order to get to your goal?
   d. What is your role in this situation (i.e., how would you describe yourself)?
2. List all the mistakes of negotiation, and summarize in your own words what each mistake means to you.
   a. Identify situations where you've fallen victim to these mistakes.
   b. Rank which mistakes are most likely for you and state why.
   c. State how you might overcome each mistake.
3. Define negotiation potential. What are some situations you face where you already knew there was negotiation potential? What are some situations you face where you *now think* there is negotiation potential?
4. For each of the four situations below, answer the following three questions:
   a. Identify the parties, the nature of the interdependence, and the apparent conflict.

b. Does this scenario have negotiation potential? Why or why not?
c. Which mistakes are these negotiators likely to suffer from?

Situation 1: Alex, Joe, and Parker are creating a team contract so that they can work more effectively together. The last presentation they worked on together was a disaster and they want to avoid that in the future. Alex says, “We need to put a penalty in for people who come late or leave early, especially since Joe always seems to need to leave early.” “I have music practice,” replies Joe. Parker then adds, “Sometimes I have to get my kid from day care; I just can’t commit to schedule certainty with a 2-year-old. So I am against this.” Alex yells, “Well HOW are we supposed to function that way? It is not a free-for-all!” “Calm down,” Parker says. “No! I am sick of this. You two always gang up on me!” Alex exclaims.

Situation 2: Jamal and Amir are in the middle of a heated debate over who will lead when delivering the presentation to the CEO. “You just want to hog all the glory,” Jamal accuses. “Oh, I do? What about you? I can barely get a word in when we meet with people before you interrupt with some story of how great you are,” Amir replies. After sitting in silence for a while, Jamal says, “Whatever. We need to figure out *something*. How about we just flip a coin? The winner leads.” Amir retorts, “We are supposed to tell our presentation plan and rationale to our supervisor. You think she is going to go for ‘We decided who would lead by flipping a coin’?”

Situation 3: Bill’s manager, Carmen, walks into his office and says, “You have been leaving early at least two times a week for the past month. You were warned about this.” Bill replies, “But I told you, I have basketball practice two times a week.” Carmen says, “And we told you that you can’t leave early per company policy regulation Article 4, Section 5. That regulation also states that a person who does this shall get one warning, and if they don’t comply they can be terminated.” Bill then says, “I only have one more month in the season. Can’t you just let me slide and I’ll make it up somehow?” Carmen looks at Bill and says, “I was only coming in to tell you that you are fired.”

Situation 4: Consider this car-buying negotiation:

- Salesperson: Well, for this car, we can give it to you for 10% below MSRP, so $58,452.
- Shawn: That is too much.
- Salesperson: What were you expecting?
- Shawn: I was thinking more like $52K.
- Salesperson: Are you kidding?
- Shawn: I didn’t think so. I guess we are done here.
- Salesperson: Wait, let me go ask my manager. [Comes back in about 15 minutes.] What if we do $58K but we throw in the extended warranty and roadside assistance for 5 years?

- Shawn: I really don't think so. Even with that I couldn't go above $55K.
- Manager: Hello, my name is Jen. I am the manager here. Maybe I can help.

Putting It Into Practice

1. Go into a situation where negotiation is uncommon and create negotiation potential. Report to the class how you did that.
2. Come to class prepared to discuss conflict situations that would not *typically* be thought of as negotiations.
3. Interview someone who engages in a lot of negotiations. Ask this person about the eight mistakes listed in this chapter and how they have managed these mistakes in negotiations.

Key Terms

Availability bias
Compromise
Confirming evidence bias
Egocentrism
Endowment effect
False-consensus effect
Fixed-pie bias (or zero-sum bias)
Heuristics
Illusory conflict
Inert knowledge problem
Interdependence
Lose-lose agreement
Mental models
Negotiation potential
Negotiation
Self-fulfilling prophecy
Tactics

Chapter 2

Understanding Versus Convincing and the Basics of Negotiation

Learning Objectives

2.1 Demonstrate the difference between understanding and convincing as approaches to negotiation.

2.2 Analyze the basics of a negotiation by identifying participants and the bargaining mix and accurately distinguishing among issues, interests, and positions.

2.3 Assess the challenges and/or opportunities to obtaining value in a one-issue or multiple-issue negotiation by establishing the resistance point and drawing the zone of potential agreement (ZOPA).

2.4 Discern what ethical issues are likely to occur in negotiation, and think critically about what it means to become an ethical negotiator.

When you sit down to negotiate a contract at work, or negotiate an apartment lease, or decide what color to paint a room with your significant other, when does the negotiation actually start? Think about this for a minute. Do you think it starts when you start talking? How about when you agree to have the meeting where you are going to start talking?

Although the *conversation* might start at one of these points, the dynamics of the negotiation begin much earlier, inside your head and the head of the person(s) you are negotiating with. Why? Once you start anticipating the negotiation, you start making choices—choices about what you are going to say, what tactics you might use, what your opening offer might be, and so on. These conscious and unconscious choices you make before you ever utter a word have an enormous impact on negotiation, which is why we talk about them here. Unfortunately, negotiators often rely on "instinct" or their "gut" to make those choices; this results in many of the mistakes we discussed in Chapter 1.

Understanding and Convincing Approaches

2.1 Demonstrate the difference between understanding and convincing as approaches to negotiation.

When you take an **understanding** approach to negotiation, you are trying to comprehend what the other side is thinking as completely as possible. You go into the negotiation with the express purpose of uncovering the interests and goals of the other side so that you can use the resources at your disposal to ultimately get what you want.

We can contrast understanding with **convincing**, which works exactly as it sounds—attempting to alter the beliefs or actions of the other side to get something. Perhaps you want them to lower their price or settle on the negotiation today by convincing them they are not going to get any other offers. Perhaps you want to convince them that you are the boss and they should concede because of your formal position. The idea here is that you are causing them to change their mind or their request without having to give up any resource. Whereas the negotiator still must "understand" or know something about the other side, the intent is to change the other side's mind, to move them away from some preexisting belief or stance. We will use *understanding* and *convincing* as contrasting approaches throughout the book (see Table 2.1).

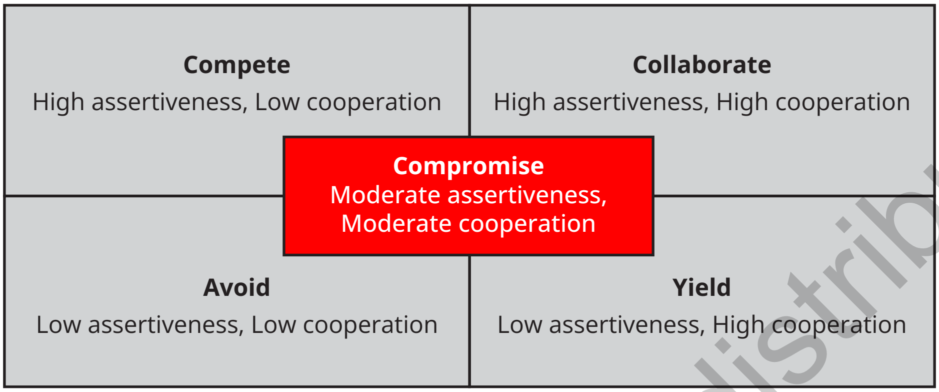
Table 2.1 ▪ Convincing and Understanding: Key Approaches to Negotiation

Understanding	Convincing
Comprehend what the other side is thinking.	*Alter* the beliefs of the other side.
Question others to uncover interests.	*Demonstrate* to others why you are right and they are wrong.
Give the other side enough **value** so they say yes to what you want.	*Force* them to give you value.
Exchange information about priorities and interests.	*Argue* your position.
Listen intently to what the other side is saying.	*Dominate* the interaction.
Make multi-issue offers.	*Make* single issue offers.

Perhaps you have heard of these negotiating strategies before (Figure 2.1):[1]

- Avoid: Low assertiveness, low cooperation
- Yield: Low assertiveness, high cooperation
- Compete: High assertiveness, low cooperation

Figure 2.1 ▪ Traditional Negotiation Strategies



- Collaborate: High assertiveness, high cooperation
- Compromise: Moderate assertiveness, moderate cooperation

It's a bit of a misnomer though to think of these as negotiation "strategies." Why? First, avoiding and yielding can be done without negotiating at all. Second, competing and collaborating strategies convey the idea that negotiations have winners and losers—that simply isn't the case in most negotiations (often *multiple* people think they lost). Third, these terms connote how you *view* the negotiation (e.g., competitive) rather than how you intend to *obtain value* in the negotiation. Fourth, strategy implies *intention*, but assertiveness and cooperation are often determined by one's personality or feeling rather than conscious thought.

For these reasons we leave these strategies behind and focus on convincing and understanding as key approaches to negotiation. We deliberately use the term "approach" rather than "strategy" here to note the difference between what a negotiator does and what they might be *trying* to do. An approach is what the negotiator does—how they are indeed approaching the negotiation and the other negotiating parties. A strategy implies a series of moves that are thought through.

Understanding

Negotiations are a means to get what you want, yet it can be hard to discover what people's underlying wants actually are. Typically, it requires some kind of questioning to get to the root of the interest. Once you do this, it becomes possible to find other ways to reach agreement. Consider the following example:

Employee: I'd like a higher salary.
Manager: Why?
Employee: Well, because I see other people getting raises.
Manager: OK, but why do you want a higher salary?

Employee: Because I want to feel valued by the company. [Note: Feeling valued is the employee's interest.]

Manager: And you think that getting a raise shows value?

Employee: I guess so, yes.

Manager: That's important to understand because maybe there are other things I can offer that will make you feel valued. How about I recommend you attend that special conference overseas?

We can see that the manager in this scenario is clearly taking an understanding approach to this negotiation. In this scenario, by probing (asking questions) the manager figures out what the underlying interest is on the part of the employee.

It is often hard to predict what a negotiator truly wants. Consider another scenario in which it is not so obvious what the underlying interest might be:

Manager: I need you to cc me on all of your e-mails to customer X.

Sales Employee: Why?

Manager: Because I need to maintain an administrative presence.

This answer does little to explain what the manager really wants. The employee needs to keep asking questions to find out:

Sales Employee: But was there a concern?

Manager: Yes, the customer expressed concern to our top management that they were not as valued as they once were. Cc'ing me will convey that they have the ear of upper management, which is going to keep the customer happy. [Note: Keeping the customer happy is the manager's interest.]

Sales Employee: Oh, OK. That makes sense. Thanks.

Knowing this is the interest, the employee might find additional ways to use resources to get more value from the manager.

Sales Employee: OK, I'll cc you, and I'll look for ways to pamper the customer more, maybe through increased visits, more frequent communications, or even a social event with our CEO.

Manager: Great ideas, thanks.

In this scenario, we can see the benefit of the employee taking an understanding approach. In asking that second question, the employee discerned what was really bothering the manager. The employee also offered to take on extra work, even better because that satisfies the manager's underlying interests. Without the employee's digging for that underlying interest, those additional opportunities to take care of the customer would've been lost. The employee leaves this conversation with more information about the manager's interest, and the manager leaves thinking positively about the employee and confident the client is in good hands.

Convincing

Why do we use arguments in negotiation? To convince others. To get someone to agree with a belief of yours or a perception you have, or at least to change their own belief or perception in some way. Let's look at the following example:

Employee: I'd like to negotiate a higher salary. Is that possible?
Manager: That would cause problems in the team.
Employee: But I see other people getting raises.
Manager: Yes, but those people have more experience than you.
Employee: But my performance review was at the top of the scale—isn't that worthy of a raise?
Manager: Maybe next year.

What a disappointing negotiation. It is clear in this revised scenario that both the employee and the manager take a convincing rather than understanding approach. With each statement, each person is trying to convince the other to change their mind. The employee uses a comparison argument ("other people getting raises") and a data-based argument (citing their performance review). The manager uses also uses data ("Those people have more experience"). Neither individual seems interested in understanding the other's interests.

To better grasp understanding versus convincing as negotiation approaches, consider the story of Joan and Louise, who are both newcomers at a company. Joan and Louise both have company car benefits. The question now is who gets which car; it depends on which models are available. Joan was offered an SUV, and Louise was offered a new medium-sized electric car, so they start to negotiate.

Joan: You should let me have the electric car; I already have a charging station at my place.
Louise: True, but technically I was assigned the electric car.
Joan: Yes, but we are both newcomers, and we have the same car benefits. Wait, don't you have a big family? Wouldn't you prefer the SUV?
Louise: Yes.
Joan: I think we would be better off if we exchange the cars.
Louise: That'd be great! Are you sure that's OK with you?
Joan: Absolutely. I don't have enough garage space, and you have a big family. This seems to be a better choice.

There are several things we can see here about the approaches that Joan and Louise are bringing to the negotiation. Let's look at the conversation again:

Joan: You should let me have the electric car; I already have a charging station at my place. **[Convincing]**

Louise: True, but I technically was assigned the electric car. **[Convincing]**

Joan: Yes, but we are both newcomers, and we have the same car benefits. **[Convincing]** Wait, don't you have a big family? Wouldn't you prefer the SUV? **[SHIFT to Understanding]**

Louise: Yes.

Joan: Would you be better off if we were able to exchange the cars? **[Understanding]**

Louise: Yes, that'd be great! Are you sure that's OK with you? **[SHIFT to Understanding]**

Joan: Absolutely. I don't have enough garage space, and you have a big family. This seems to be a better choice. Let's ask just to make sure it's OK. **[Understanding]**

Notice the approach in each statement. Joan starts by trying to convince Louise. Louise reciprocates (i.e., does the same thing back to her) by trying to convince Joan. This does not result in an agreement, and Joan wisely shifts to an understanding approach, whereby she asks Louise a question about her big family. Louise appreciates this and reciprocates by asking Louise if this is OK with her. Both individuals have gone from convincing to understanding and, in doing so, have found a good solution to their problem. This is typical in negotiations, which often involve individuals changing their tactics over the course of the negotiation.

Notice, though, the danger in starting with a convincing approach. If Joan had not remembered that Louise had a big family (even the act of remembering shows Joan has some focus on *understanding* Louise), Louise might have instead offered for Joan to keep the electric car. Although this might have closed the negotiation, it was not an optimal agreement. Table 2.2 compares these agreements.

Table 2.2 ▪ Convincing Versus Convincing → Understanding

Outcome 1: Only Convincing	Outcome 2: Convincing → Understanding
Joan: SUV too big for the garage space, frustration	Joan: Electric car, fits garage space and can use the charging station
Louise: Electric car, not big enough for the family, frustration	Louise: SUV fits the family needs

It's easy to see here why Outcome 2 is preferable to Outcome 1. The relationship is strengthened, and Joan and Louise both get something tangible that they want.

Most prominent, public, negotiations take convincing approaches. This is due to many reasons but mainly fear over being seen as "weak" in the public eye. As seen in "Negotiation in the Real World: SAG AFTRA," choosing only convincing as an approach severely limits the tools at your disposal and often leads to huge losses in value.

Negotiation in the Real World

SAG AFTRA

In a video released on May 30, 2023, prominent members of SAG AFTRA, a labor union that represents 160,000 media professionals and entertainers, appealed to members to vote for a strike. The counterpart in this dispute was AMPTP, a trade association representing film and television studios. On July 13, 2023, the SAG AFTRA committee voted unanimously to recommend the strike. Celebrities backed this decision, which halted the TV and film industry for the first time in 63 years. This was such a momentous occasion that the cast of the award-winning movie *Oppenheimer* left the film's London premiere ahead of the walk-out announcement. As part of the rules signed by SAG AFTRA on July 10, 2023, actors could not participate in promotional work for films during the strike. On July 25, thousands of actors rallied at Times Square, and celebrities such as Jessica Chastain, Christian Slater, Bryan Cranston, and Rachel Zegler took part. The main issues being discussed were salary, working conditions, and the use of artificial intelligence (AI) to reproduce actors' performances. An agreement was reached after 146 days of strike that, in combination with the 2023 Writers Guild of America strike, resulted in the loss of 45,000 jobs and an estimated $6.5 billion.

Sources: Complex, V., & Piccoli, S. (2023, July 25). Dispatches from the picket lines: Stars hit Times Square rally. *Deadline.* https://deadline.com/2023/07/actors-strike-brendan-fraser-bryan-cranston-picket-line-1235447565/; Sanchez, C. (2023, November 9). Everything to know about the SAG strike that shut down Hollywood. *Harper's Bazaar*. https://www.harpersbazaar.com/culture/politics/a44506329/sag-aftra-actors-strike-hollywood-explained/

Throughout this book we will help you understand the relative benefits and costs of choosing either convincing or understanding. Unlike Joan and Louise, you don't want to rely on getting lucky in negotiation and thinking of something on your feet to solve the problem at hand. You want to be conscious in your approach so that you can best satisfy your interests and obtain the most value.

The Basics of Negotiation

2.2 Analyze the basics of a negotiation by identifying participants and the bargaining mix and accurately distinguishing among issues, interests, and positions.

There are some fundamental concepts that are relevant in all negotiations. They provide a language and structure for talking and thinking about negotiations. These concepts include participants, issues, interests, and positions.

Negotiating Participants

Many different types of participants are involved in negotiation. The **parties at the table** are those who perform the negotiation. They make the moment-to-moment decisions and conduct the negotiation conversation. They are also the ones who engage in tactics and take actions to move the negotiation along. In the book we use the term "negotiation dance" to describe this part of the negotiation—the parties at the table are, in this sense, the dancers. But the parties at the table rarely operate in a social vacuum; what they choose to do and think is often influenced by others not at the table.

When you are negotiating with a coworker or a client, it is unlikely that you are negotiating without others influencing your decisions. You need to a get a coworker to deliver you some data in the correct format by Friday instead of next Wednesday—you and the coworker are the parties at the table, but that coworker's *boss* clearly has influence in this scenario! And there are other, less obvious people who, although in the background, can have a strong influence on what happens in a negotiation. For example, your coworker may be worried that other employees (those not at the table) will think they are showing you favoritism if they drop everything to provide you that data several days early.

We can expand our view of the people involved in the negotiation by considering other types of participants who, though not at the table, can influence what happens. These background participants and observers affect the negotiation process in different ways.

Background participants are people with the capability to directly change or affect the progression of the negotiation via their influence on the parties at the table. Background participants are important in a negotiation because they have the power to disrupt or facilitate progress toward agreement. That is, they can start and stop a negotiation, or they can change its direction. It's all well and good to negotiate a strong job offer with a representative from the human resources department, but if the line manager is unwilling to accommodate the job offer, the negotiation either will be reopened or will fail. It is not only that background participants have the final say; background participants can also change the way a negotiation progresses. The salesperson who has to get approval from her manager to give the customer the price he wants on a specific item is under the direct influence of the manager; in this way the manager has the power to change how the negotiation goes. If the salesperson comes back and says, "My manager won't let me give you that much of a discount, but how about I offer you X, Y, and Z instead," the negotiation will move in that new direction without the manager needing to get involved directly.

Changing the way the negotiation progresses can be accomplished in an overt or subtle way. Consider a union negotiation in which the union negotiator tells the company negotiator that the membership will agree to a wage cut. The membership (the background participants) will vote on this deal, and if they vote it down, the union negotiator will have to continue negotiating. The union members are not "negotiating" at the table but clearly have a great deal of influence over the eventual agreement. Consider also the example of a middle manager negotiating a contract for a client. Although the CEO of the manager's company is not in the room and may not overtly tell the manager to sign or not sign the deal, the manager is thinking about the CEO when signing that deal and the guidelines the CEO has sent down from the executive suite. That CEO is thus directly affecting the negotiation but is doing so without getting involved and, possibly, without even knowing about the deal. This is a subtler form of control.

In this way, negotiations with strong background participants are often conducted by **agents**. Agents negotiate on behalf of others. A sales employee trying to represent their manager's interests is an agent, a subordinate sent to another department to negotiate a joint agreement on behalf of their manager is an agent, and a realtor negotiating a house deal on the behalf of a buyer is an agent. Sports agents negotiate contracts on behalf of their clients. In each of these cases the background participants have direct authority over what happens at the table, but the agents conduct the negotiation.

Although background participants may have varying degrees of influence, what is important is that they can change the course of the negotiation. This may necessitate focus on the background participants because if a negotiator gets the person at the table to agree to something that one of these background participants *does not* like, then they will soon be renegotiating.

Observers are people who are interested in the negotiation outcome but have no way to directly change its course.[2] For example, if Tim is negotiating a contract with a particular vendor, other vendors will be interested to see what Tim does even if they can't do anything to change Tim's approach. As with the background participants, the observers influence negotiations mostly in terms of how the people at the table are thinking. Because the observers are not affected by the outcome directly, their views usually will not change as the negotiation progresses. However, negotiations can set precedent, and because of that the parties at the table may be worried about how the observers will construe this precedent based on what happens.

Whereas you could ostensibly bargain (albeit indirectly) with background participants by offering things they might want as part of the package, you cannot as easily do that with the observers. So, when Debbie tries to negotiate a new chair for her office, her manager, Shivam, may be concerned that if she does that, it will be seen as favoritism by the other employees—the observers. This is because Debbie's coworkers, although not participating, are watching Shivam's actions. This example also illustrates how observers may not even be people but rather abstract groupings such as "customers," "constituents," or "departments." Shivam is worried what "other employees" across the organization think, not necessarily about what specific people will think. It is not the observers themselves that affect choices and behaviors in a negotiation but rather what the parties at the table *think* the background participants might care about. Shivam may think he knows how the "other employees" will view Debbie if she gets a new chair, but that might be a mistake in perception. If Shivam were to talk to those individuals, he may find out they don't care.

In the agent examples, the observers are interested parties but do not have direct control over the agent. In the sports example, the team's coaches would be observers; in the sales example the salesperson's family members might be observers; in the house-buying example the neighbors might be observers In each of these cases the parties at the table or the background participants might be thinking directly about these observers as they negotiate.

The influence of observers is more indirect and amorphous but also more constant when they are abstractions (e.g., "the public"). Do not underestimate the power of this group. The observers are often the "court of public opinion." This is why, in certain negotiations, seemingly absurd details are added to the agreement because the parties at the table are concerned about how the agreement is going to look to the public.

Issues and the Bargaining Mix

Issues are the content of the negotiation, the items "on the table" being negotiated—days off, money, tasks, a company car, warranties, discounts, favors, food, hats, *anything*. Issues are the fundamental building blocks or pieces of the puzzle used to craft an agreement. The collection of issues being negotiated is called the **bargaining mix**. We talk about the bargaining mix because negotiators typically have too small a bargaining mix (too few issues), and they typically assume those issues to be zero-sum (see Chapter 1), meaning they are valued equally to all negotiating parties. You will negotiate more effectively if you can increase the number and types of issues included in the bargaining mix. This has benefits that we will cover later in the book, especially when it comes to reciprocity and creating value (Chapter 7).

An *issue* in negotiation is different from the typical use of the word "issue." In normal lexicon, an issue can be anything that needs to be resolved or is creating discomfort; think of what someone means when they say, "You have issues." Your mistrust of another person, using this definition, would be a potential issue. However, in negotiation we use the word "issue" only to refer to things on the table for agreement: contract length, salary, money, time, tasks, or anything else that could be detailed in an agreement.

Negotiations can have **obvious issues**, items that everyone knows must be negotiated, and **potential issues**, items that *could* be added to the negotiation but it's not obvious to one or both parties that they must be negotiated. One way to add issues to the bargaining mix is to think more broadly about why the parties are at the table. Another is to see what emerges during the negotiation. This is difficult, and so we will spend a lot of time in subsequent chapters discussing effective and ineffective ways to do this. Table 2.3 provides examples of both obvious issues and potential issues in common types of negotiations.

Table 2.3 ▪ Obvious Versus Potential Issues

Negotiation	Parties at the Table	Obvious Issues to Be Negotiated	Potential Issues to Be Negotiated
Job offer	Employee Manager	Salary Bonus Moving expenses	Performance review date Task assignments Tuition reimbursement
Car purchase	Customer Salesperson	Cost Financing plan	Administrative fees Oil changes, maintenance

Negotiation	Parties at the Table	Obvious Issues to Be Negotiated	Potential Issues to Be Negotiated
Trade agreement	Country 1 Country 2	Tariff rates Length of time Products covered	Technology transfer between countries Chemical substances restrictions
Wedding planning	Future partner 1 Future partner 2	Location Reception cost Number of guests	Location of honeymoon Structure of ceremony Choice of music

We will distinguish between **one-issue negotiations** and **multiple-issue negotiations**. One-issue negotiations, as the name suggests, are negotiations in which only one issue is discussed. Multiple-issue negotiations are negotiations in which multiple issues are discussed. Some negotiations go from one-issue to multiple-issue, or vice versa, depending on the moves by the negotiators. Overall, though, the tactics available to negotiators are far more limited in one-issue negotiations than in multiple-issue negotiations, and these negotiations tend to be far more contentious. Here is a classic one-issue negotiation:

Parent: Go to bed now.
Toddler: No!
Parent: Yes!
Toddler: No!

Here the issue is, of course, when the child is going to go to bed. One-issue negotiations can have clear winners and losers and often result in compromises (meeting in the middle).

Interests Versus Positions

What do you want? It seems like an easy question, right? But it might be the most difficult challenge you face in becoming an effective negotiator! What you want underlies almost every decision you make in negotiation and how you evaluate the outcome of your negotiations. Many failed negotiations are a direct result of one or more negotiators not knowing the answer to this question.

Negotiation in the Real World

Interests in a Contract Negotiation

This example, from a contract negotiator who attended one of our classes, speaks to the importance of interests versus positions: "We reached an impasse with a client after serving them for one phase of a three-phase project implementation because of the client's nonperformance and refusal to compensate our team as stipulated under the contract. My interests were to have our team *respected* as consultants, to be paid for the value of our contribution, and to have the client honor project parameters as far as scope, budget, and timeline were concerned. These interests were, however, poorly reflected in my positions. I represented only one position on behalf of our firm and that was to be paid for working beyond the agreed contract term, which triggered a clause for additional compensation. Had I represented our actual interests, we would have been able to negotiate positions that would honor our team's efforts, project scope and duration, and even built-in payments that were less financially and performance punitive as the one our contract imposed. It would have been extremely helpful in this negotiation to understand the difference between interests and positions because then I would have been able to get to the root of the reasons for what our team and the client wanted, needed, and desired. This would have helped me as the principal consultant to negotiate with understanding and to make an effort to expand the bargaining mix. It would also have helped me understand the client's request for the removal of the contract term and could've aided us in negotiating positions that would serve their individual, global team, senior management, and organizational interests."

The fundamental concept here, and probably the most important one you will learn in reading this book, is the **interest**. Interests are the fundamental reason *why* you want something. They are something that you want just because you do, and you will be satisfied with the negotiation based on how much of your interests are satisfied. Interests can be anything—respect, admiration, love, power, music, fun, safety, silence. Interests are rooted in needs, and they are what give something value. If you don't have an interest in opera, another person's season box seats at the theater won't hold a lot of value in the negotiation. If you don't have an interest in sand and sunny weather—if that does not bring you *joy*—then your partner offering you a beach vacation may not bring you a lot of value either. Everyone has different sets of interests and priorities regarding those interests. Many are universal but vary in strength, such as the desire for power, respect, or achievement. Some are idiosyncratic, such as a love of watches or rainy gray days. Interests tend to persist beyond a specific negotiation. Someone who wants the respect of their peers will likely always want this. Someone who wants to take long vacations will probably like doing this in the future as well. Your interests are based on your history and your personality, and those things are relatively stable. Ultimately you negotiate to satisfy your interests.

We contrast the interest with the **position**, which is equally important to understand in negotiation. Positions are the means by which you try to achieve your interests. Positions are things that are asked for in negotiations, and interests are why those things are asked for. For example, Jane wants the respect of her professional colleagues (interest), so she negotiates for a big corner office (position). Paul wants flexibility in his work schedule (interest), so he negotiates to work remotely 2 days a week (position). Steve is curious about Mayan history (interest), so he negotiates with his wife to take their next vacation to Mexico (position). Consider the issue of money. People ask for a certain amount of money (position) rarely because they love the sight and smell of it but mostly because it allows them a means to satisfy their interests, whatever they may be. An **offer** in a negotiation is a proposed set of one or more positions on the various issues.

Although effective negotiating is a matter of satisfying your interests, more often you focus on getting whatever position you have decided you want. You want respect, but you argue for the corner office. Or you want respect, so you argue for a raise. Why is this a problem? Because a feeling of respect comes from how others treat you. Even if you are successful in acquiring a raise, this good feeling is likely to be temporary because (a) you will still remember not getting the raise previously and that you had to ask for it and (b) others will continue to treat you in the same way you were treated before. The position has been reached, but your underlying interest may still be unfulfilled.

You should now be seeing the connections among issues, interests, and positions (Table 2.4). Issues are what are on the negotiating table. Each issue has a set of one or more possible positions. Some issues (e.g., salary) have infinite positions. Positions offered, in turn, come from the desire to meet interests.

Table 2.4 ▪ Issues, Positions, Interests

Issue	Position	Interest
Remote Work	Remote 3 days a week	My spouse can't pick the kids up from school on certain days.
Dinner	Burger King	I'm concerned about money, and we have a coupon that will get us a deal at this restaurant.
Salary	$70,000/year	I want to feel that I am valued at my new company.
Grade	An A in negotiation class	I want to impress my employer, get a good recommendation from my professor, and become a better negotiator!

Negotiation in the Real World

Teamsters and UPS

In January 2018 the Teamsters, representing about 260,000 drivers, began their collective bargaining process with UPS in what is one of the largest collective bargaining agreements in the United States. The deal between the Teamsters and UPS, which was signed in 2013, was set to expire in July 2018. In their initial proposal to UPS, the Teamsters included many *issues* to be discussed, such as late-night delivery, the number of future employees, and future package delivery technology. The Teamsters also provided initial *positions* on those issues in an offer to UPS: no delivery after 9 pm, 10,000 additional workers, and prohibiting UPS from using "drones, driverless vehicles, and other new technology to transport, deliver or pick up packages."

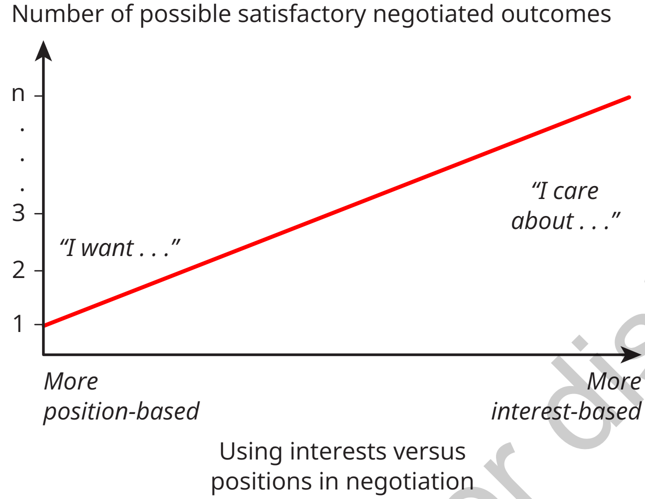
From a negotiation point of view, what was missing, at least in this initial reporting, was the *interests* of the Teamsters. Clearly the Teamsters were worried about the jobs and well-being of their members, but their initial positions may not have been the best ways to satisfy those interests. For instance, if the Teamsters prohibited UPS from exploring drone and driverless technologies, UPS could suffer in terms of brand image in comparison with FedEx, ultimately hurting the company and reducing the number of jobs available to the Teamsters in the future. Similarly, there may be drivers who prefer working at night and would be happy to do so, perhaps for extra wages.

Source: Ziobro, P. (2018, January 25). Teamsters tell UPS: No delivery drones or driverless trucks. *Wall Street Journal*, p. B6.
https://www.wsj.com/articles/teamsters-tell-ups-no-drones-or-driverless-trucks-1516795200

You can think of interests and positions as falling along a continuum with the position or offer at one end of the continuum and the purest version of the underlying interest at the other. As shown in Figure 2.2, when you can move along the continuum (the horizontal axis) from positions to interests, you increase the number of possible satisfactory outcomes. Take this simple example of a teenager's request to his parents: "Can I stay out until 11 pm on Saturday?" How many options will satisfy this agreement? One. This is because what the teenager is offering is a position. If the parents respond, "What is important that's happening on Saturday?" and the teenager says, "My friend is in town this weekend," immediately more positions become possible. Perhaps the teenager and his friend can hang out earlier on Saturday, or on Sunday, or on Friday. In this case, by asking the **interest-based question**—a question specifically designed to get at another's interest—the parent has moved down the continuum (the horizontal axis) closer to interests and in doing so has increased not only the number of possible options but the potential for both sides to obtain value from the negotiation. The most common interest-based questions include the following:

- What is important to you?
- Why is [insert position] important to you?

Figure 2.2 ▪ Using Interests Versus Positions in Negotiations



Asking these two questions is not only central to taking an understanding approach to negotiation but will open up many avenues for obtaining value.

Tangible Versus Intangible Interests

People's interests can take a lot of different forms. Suppose Ali likes her current job as an accounting consultant but feels that management doesn't appreciate her. She learned that some of her newly hired coworkers are being paid almost as much as she is even though she has more experience and tenure in the organization. This bothers her because she feels that her expertise and contributions to the company are not being recognized. A typical position-based, convincing attempt to negotiate might end up looking like this:

Ali: I think I deserve a raise. **[Convincing]**
Manager: I'm sorry, but we simply cannot afford to do that right now because our budget is tight. **[Convincing]**
Ali: But I'm competent at what I do and have lots of experience, and I feel that I am not being paid accordingly. **[Convincing]**
Manager: I hear what you are saying, but we simply cannot pay you more right now. **[Convincing]**
Ali: Well, maybe I'm going to have to explore other options with other companies. **[Convincing]**

As both parties walk away from that exchange, there's a risk that Ali will conclude that her manager's refusal to give in to her position (a raise) is proof that the company does not appreciate her, and the manager might get the impression that Ali is greedy and insensitive to the company's current budget problems. Even though both of those conclusions are probably incorrect, these impressions can damage the relationship going forward.

In contrast, a more interest-based attempt might sound more like this:

Ali: I am concerned that management doesn't appreciate me, as indicated by the salaries of my peers, even though I am competent and have a lot of experience. I love working here and don't want to leave, but this is bothering me. **[Convincing]**

Manager: I agree that you're a great employee, but unfortunately we don't have any money for raises in our budget right now. Is there another way for us to demonstrate that we *do* appreciate you? **[Convincing → Understanding]**

Ali: I don't know. What are you thinking of? **[Understanding]**

Manager: How about a title of "senior consultant" that would emphasize that you are a more experienced and valuable employee than the newer hires. We could also look for a larger office for you, which would also signal your higher status. We do appreciate you, even if we cannot pay you more right now. Would some of these sorts of things help? **[Understanding]**

Ali: That sounds interesting. Can we also talk about timing of yearly evaluations and what typical yearly raises have historically looked like? Perhaps we can accelerate my schedule depending on performance? **[Understanding]**

Manager: That actually might be possible. Let me see what I can do. **[Understanding]**

We can see here how the discussion of interests, even though the negotiation started with a convincing approach, helped the parties get to understanding. Now, as the parties walk away from the exchange, management is aware that Ali feels underappreciated, and Ali knows that her concerns have been heard and that management is trying to do something even if they are not going to pay her more in salary.

Tangible interests are underlying wants that can be seen, touched, or felt (e.g., money, goods, time). Interests can also reflect, for instance, a desire to maintain a relationship or respect or trust. These are **intangible interests**, underlying wants that cannot be seen, touched, or felt (e.g., respect, love, appreciation). If the interest of the person you are negotiating with is for you to show them respect, it doesn't matter how much money you give the person; what matters is how you treat that person. Showing respect through your actions and words will mean more to the employee and will ultimately be the key to your getting what you want. Consider another example:

> J.E., the buyer, was negotiating over the purchase of an abstract painting with a seller, David, whom he met online. There were several hurdles to the negotiation, not the least of which was that J.E. was located in New York City and David was located in Phoenix, Arizona. This meant that J.E. not only had to negotiate with David for the price of the painting but also had to figure out how to get the painting to the East Coast in an affordable way. On top of this was the uncertainty about purchasing an abstract painting

> from an unknown painter: Is it a good investment? Are there any defects? David sent him pictures, but there still remained a great deal of uncertainty. J.E.'s interests thus were to lower the price to the level at which he would (a) be comfortable with a reasonable number of emergent problems and (b) have enough money to get the painting from Phoenix by either shipping it or driving to collect it (it was quite large). When discussing the price of the painting with David, he noticed that David was reluctant to lower the price below $1,600, but that reluctance did not tell J.E. anything about David's interests. David assured him that the painting was in amazing shape, but from J.E.'s perspective, he didn't have much reason to trust a stranger on the other side of the country. In fact, it gave him the impression that David was inflexible and primarily concerned about money.

At this point in the negotiation, many potential buyers would walk away, not realizing the intangible interests at play. David's desired position is $1,600, and it's clear he wants to negotiate based on this desired position. David doesn't want to move the price, yet J.E. has a lot of concerns that need to be addressed to agree to the deal. What could J.E. do? What are the intangible interests he doesn't know about? Here's a bit of background on David.

> David is an up-and-coming abstract artist. He has worked on this piece creatively for months, and he believes the execution is his best work. Because he recently had an inspirational trip to Tahiti, his techniques and topics have now evolved. He is at the stage of securing his first exhibition at an art gallery in Seattle. He has been forced to sell this art piece because of the massive expenses incurred during his trip, and now he needs the money. Needless to say, selling this piece is painful for David. It turns out that although the money is obviously important, the most important thing to David is selling the painting to someone who will respect and care for the art as much as he does. To him, selling the painting is like losing a member of his family, and he does not want to see it go to someone who won't to appreciate it as he does and who won't love it.

We can see here David's interests—that he is losing a "member of his family" and he desperately wants someone to love and care for the art piece as much as he does. The sales price of $1,600 (or any amount of money) is not going to address this intangible interest of David's. What allowed David to say yes to the deal was learning about J.E.'s intangible interests:

> As the negotiations went on, J.E. communicated that he is an amateur art collector and he had wanted this painting since he first saw it on David's website. His plan was to hang it in the hallway of his large office building where everyone could appreciate it. It was perfect in size and color, and it had the artistic expression he was looking for.

Unbeknown to J.E. at the time, this was crucially important information for David and made him much more likely to be flexible on lots of issues, including helping get the painting to J.E. The eventual negotiation was resolved positively. Once David accepted that J.E. was the kind of buyer he wanted to sell to, he was extremely helpful. Whereas before he had seemed suspicious and reserved, he now was overly generous.

In this example of David and J.E., if they had discussed only positions, there would not have been a deal. But once both parties understood the underlying interests of the other person better, not only was a deal possible, but in fact a deal that both parties were happy with was struck.

Understanding the concept of interests and how they underlie positions and offers in negotiation will open the door to agreement, as we see in the previous example. There are two reasons that parties are motivated to collaborate when interests are on the table. First, because you are giving the other party something they value, they will reciprocate. This is what we will focus on in Chapter 7. Second, you are addressing needs that are personal to them, needs that may be tied up in their identity. You will learn more about how to manage threats to someone's identity in Chapter 9.

Evaluating Negotiation Success

When we ask our students whether they did well in a negotiation, they almost universally discuss positions, that is, how much "stuff" (money, days off work, etc.) they got. These are outcomes that can be measured objectively at the end of a negotiation. The problem, though, is that these outcomes are positions, not interests. As interests represent root needs, wants, and desires, it is from the fulfilling of interests that we derive negotiation success. Interests also come in all shapes and sizes.

Take, for instance, negotiating with your supervisor over a raise. You would like a 5% raise, whereas your supervisor would like to keep you at the standard 2%. You may think that success in this negotiation is measured by whether you convinced your supervisor to give you the 5% raise. Although that is *one* measure, don't forget the value that you obtain from having a great relationship with your supervisor. If you make your supervisor angry by threatening to leave, have you won, even if you get a bigger raise? No, because the relationship is harmed, and that supervisor, who might have been willing to open doors for you later on, now sees you in a more negative light. "Winning" in this negotiation might be impressing your supervisor, having a great conversation with them about your future, and opening up the door to a promotion in the near future (and a much-bigger-than-5% raise)!

This happens in the classroom quite frequently. When we conduct a negotiation role-play exercise, invariably a student does well as measured by the points within the role-play. It becomes clear, though, that the student gained an advantage in the negotiation by lying to their classmates and/or by bullying them to back down from their position. Can these tactics work in a negotiation to convince someone to change their offer? Absolutely. But at what cost? The student has cost themself significant social capital in the classroom (no one wants to work with or help them), and we use this performance as an example of what *not* to do. **Social capital** is the value derived from your relationships with others. Like a bank account and financial capital, you can use that social capital to open avenues to future resources.

Value in Negotiation

2.3 Assess the challenges and/or opportunities to obtaining value in a one-issue or multiple-issue negotiation by establishing the resistance point and drawing the zone of potential agreement (ZOPA).

There is nothing more critical in any negotiated agreement than the value received both from the agreement itself and from the downstream implications of the agreement. For example, if you negotiate with your manager over a raise, you might get value from the deal—a 3% raise—but you also get value if the manager is happy with your relationship and thinks about ways to give you more opportunities in the future. Every time we think about value, then, we think both about short- and long-term value, and as we will consider in later chapters, tangible and intangible value. For right now, the most important thing to think about is that value comes in all shapes and sizes, and it's in your interest to cast a wide net in terms of how you think about the types of value you might get from a negotiated agreement.

Creating Versus Claiming Value

When we think about value and how negotiators relate to one another, it can be helpful to think about whether those negotiators are working with each other or against each other. This is referred to as creating versus claiming value. **Creating value** is the process by which negotiators find ways to increase the total value to be gained from the negotiation. If we start from the premise that individuals have a fixed-pie bias (see Chapter 1), we can see how important creating value is to effective negotiating. Creating value involves one or more negotiators overcoming this fixed-pie bias and realizing that there might actually be more value that could be added to the negotiation rather than splitting (or compromising on) issues. Although there are multiple ways to create value, this typically happens when negotiators recognize that because they have different interests, they can make trades where the cost to one side does not equal the benefit to the other. When negotiators successfully create value, it is often said that they have reached an **integrative agreement**.

Claiming value, in contrast, is the process by which one party attempts to negotiate in such a way as to cause the other party to give up something without getting anything in return. This is related to one of the mistakes discussed in Chapter 1—assuming you know what good negotiation looks like. Many individuals believe that good negotiation is only about claiming value, that is, forcing the other side to capitulate or give in. Although such tactics can work and in some cases are needed, negotiation is more than claiming value. When two negotiators only claim value, they are said to have reached a **distributive agreement** because they are merely "distributing" the existing value rather than creating new value.

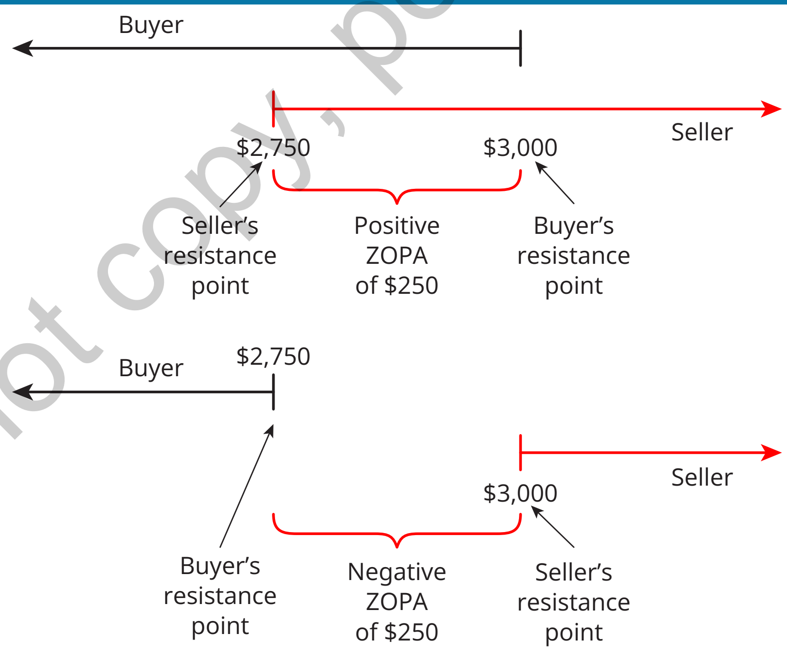
To create and claim value in negotiation, or really do *anything* in a negotiation, you have to engage in negotiation **tactics**, the behaviors negotiators engage in to obtain value. Tactics, as the name suggests, should be strategic, although they are often not given the mistakes negotiators often make (see Chapter 1). As you proceed in this book, you will see tactics associated with each concept explaining negotiator behavior during the "dance" of negotiation, starting with Chapter 7.

You should see how these link to the approaches of understanding and convincing presented earlier. An approach of understanding *should* pave the way for negotiators to create value together and produce integrative agreements. On the contrary, a convincing approach will most likely pave the way for negotiators to claim value from one another, producing distributive agreements.

ZOPA and Resistance Points

A tool for thinking about how much value you may be able to obtain from a negotiation is the **zone of potential agreement (ZOPA)**. The ZOPA represents the distance between each party's respective **resistance point**, or the point at which a party is willing to walk away.[3] Consider a simple example: a negotiation between two parties on one issue, the price for a specific product. Assume that two parties meet through an online selling website such as Craigslist. One party is trying to sell a motorcycle, and the other party is trying to buy the same motorcycle. Each party has their own resistance point, and it is the overlap in the resistance points that determines the ZOPA. If the buyer is willing to pay up to and including $3,000 to buy the motorcycle, and the seller is willing to take any amount at or above $2,750 to sell the motorcycle, they have a positive ZOPA of $250. This is shown in the first part of Figure 2.3.

Figure 2.3 ▪ Positive and Negative ZOPA



It is possible, however, that the seller is willing to go down only to $3,000 to sell the motorcycle, and the buyer is willing to pay only $2,750. In this case they have a negative ZOPA: –$250 (as shown in the second part of Figure 2.3). That is, there is no dollar amount that will, on the surface, satisfy both parties. At this point negotiators should realize that to solve this negotiation they have to *change something*. The two obvious resolutions to this problem are (1) one or both sides could influence the other side to change their resistance point and (2) one or both sides could walk away from the negotiation. Final settlements of negotiations almost always fall between the resistance points unless some other strategy is used.[4] There is a third alternative, however, and that is to create value to bridge the gap. If value can be added to the negotiation, it might be a way to change the negative ZOPA to a positive ZOPA.

With a negative ZOPA, the seller could throw in a helmet ($100 value to buyer) and saddlebags ($150 value to buyer) to close this gap. This tactic is called *adding issues* (discussed more thoroughly in Chapter 7). This creates value because these items are worth nothing to the seller. The seller is getting rid of the motorcycle, so there is no value in keeping the helmet and saddlebags. If anything, the seller probably wants to be rid of them to free up storage space. By adding these issues, $250 of value has been created in the process of negotiating. Once these issues have been added, the buyer and seller should be able to come to agreement at the price of $3,000.

The idea of the resistance point is not only relevant in one-issue negotiations, however. Even in multiple-issue negotiations resistance points can affect whether negotiators are able to reach agreement. This can happen for two reasons. First, in a multiple-issue negotiation a negotiator could have a resistance point on a specific issue that they care about. For instance, a job applicant might be negotiating a signing bonus, moving expenses, starting date, a new computer, and salary; because salary is the most important issue to the applicant, the applicant will have a resistance point on salary that will impede their ability to say yes to a deal with a salary below that point regardless of what is being offered on the other four issues.

Second, a negotiator could have a resistance point that is formed from a combination of positions on issues. If the applicant needs $5,000 to relocate, then the applicant's resistance point would be $5,000 for the combination of signing bonus and moving expenses. That is, the applicant doesn't particularly care which "pot" of money it comes from as long as they are getting a total sum of $5,000 before the job starts.

The Ethics of Negotiation

2.4 Discern what ethical issues are likely to occur in negotiation, and think critically about what it means to become an ethical negotiator.

Although not all negotiations involve critically important ethical dilemmas or difficult ethical choices, almost all negotiations, by their nature, will involve some ethical component because most negotiations involve invoking some manipulation of another party. We will consider ethics from a variety of perspectives, including the question of what exactly ethics, and being ethical, means in negotiations. We'll also examine examples of behavior that might be considered unethical, the reasons people engage in unethical behavior, and the many things that may determine whether a particular behavior is ethical or unethical in a given situation or context.

What Are Ethics?

Ethics are social standards for what is right or wrong and are rooted in considerations of philosophy and morality. In other words, ethics is generally accepted rules or expectations for what is appropriate and inappropriate behavior. Originating in moral philosophy, ethics are more specific than general social norms or manners. It might be normative in a society to not loudly burp, but deciding whether to engage in such behavior in a crowded elevator is not necessarily an ethical question. Ethics are usually more narrowly focused on issues of right and wrong, virtue and justice.

The context of negotiations can be a somewhat tricky and slippery area for ethics. Negotiation inherently involves attempts to influence another party for your own benefit. The practices used to do this, and the results of the negotiation, are likely to relate to ethics because although people benefit by negotiating, they also may be denied benefit or even harmed. Clearly some ways of trying to manipulate other people, or some agreements where people are worse off afterward, could easily be considered unethical, especially if the other person is unaware of what you are doing to them. The context can matter as well—in a corporate sales context perhaps "all is fair," but what if you are negotiating with a nonprofit secondhand store to get a discount on a piece of used furniture? Thinking through the context of your negotiation is part of what being ethical entails.

Why Are Ethics Important?

People care a great deal about fairness and justice, and behavior that is perceived as being "unfair" and "unjust" is typically considered unethical because "right" and "wrong" are tightly linked to perceptions of justice and fairness. Organizational researchers have spent decades studying and refining concepts of fairness and organizational justice,[5] demonstrating the importance of justice perception in social interactions. The study of fairness and justice has led to the development of research into different types of justice (distributive, retributive, and procedural) and the realization of how crucial employee perception of fairness and justice is to the psychological contract, job satisfaction, and motivation. Evolutionary psychology researchers suggest that humans are particularly sensitive to issues of unfair allocations of resources and are extremely conscious of status, a trait that presumably goes back far beyond the ancestral environment of *Homo sapiens.* We know this because research shows that primates demonstrate similar concerns about equitable allocations and status.[6]

It is easy to think of examples of fairness or justice "violations" that cause conflict, anger, and resentment in modern organizations. This includes people taking credit for someone else's effort, people being compensated differently for the same work, supervisors abusing their power, or a company not living up to promises about bonuses, promotions, and layoffs. It is important to observe how relatively small things, but things that are perceived as being "unfair," can have a profound impact on conflict and relationships in organizations.[7] Not surprisingly, using tactics that are ethically questionable does not necessarily benefit negotiation performance and can leave negotiators unsatisfied.[8]

Research in economics and game theory has also demonstrated how people place considerable value on fairness. The ultimatum game (or dictator game) is an experiment in which two people decide on the allocation of a resource.[9] A typical example of an ultimatum game involves two strangers. These two individuals are each told that they will have the chance to share a resource, but the division of that resource will be decided in a specific way. The first person will propose a split (it could be 50:50, or 70:30 in their favor, or even 99:1 in their favor—they can suggest any split). The second person will then decide whether to accept that allocation or reject it. If the second person rejects the split, neither person gets anything, and the interaction is over with no further contact or additional interaction. The key to this type of game is that traditional economic theory tells us that the first person *should* suggest a very uneven split (in their favor) because the second person *should* accept any allocation that results in a benefit. In other words, because $5 is better than $0, if the first person proposes a $95:$5 split, the second person should accept that deal because $5 is better than $0.

From an economic perspective, the choice between accepting the $95:$5 split and rejecting it is in principle no different than the choice between being offered $5 and $0. However, as many studies have repeatedly demonstrated, people care a great deal about the potential unfairness of an uneven allocation. An allocation of $95:$5 will almost always be rejected, leaving both parties with nothing. Even allocations of $70:$30 will most often be rejected even though, in theory, people should pick $30 over $0. These studies have even been replicated in societies where $30 represents a substantial sum. What this tells us is that people place a substantial value on perceptions of fairness and justice. Interestingly, this not only affects the second party in an ultimatum game but also the first party. What is typically seen in these types of scenarios is that the initial split is usually close to 50:50, showing that not only is the second party sensitive to the unfair allocation, but so is the first party.[10]

Negotiation is clearly a context in which issues of fairness and justice are going to be particularly salient and visible. Not only are there obvious ways in which the outcome of a negotiation might easily be perceived as unfair or unjust (by one party or both parties), but the process itself can potentially create perceptions of unfair or unjust behavior, all of which can be thought of as unethical. People often look back on negotiations and feel that they were treated unfairly or poorly, especially with the clarity of hindsight.

Having a Personal Standard

Much of this book discusses different tactics negotiators can use in the negotiation dance. Often, these tactics manipulate or manage the perceptions of another party (or parties). Yet even the word "manipulate" has a pejorative connotation, implying unclean motives and questionable ethics. But manipulation of perceptions in some form *must* happen in negotiation; otherwise, people will not change their minds or their positions or their offers. This is why a discussion of ethics in the context of negotiations is so important. What makes it difficult is that there is much more gray area than black and white.

Consider the fact that most societies agree that lying is generally an inappropriate and unethical act. Although people may acknowledge that there are occasions when "white lies" are not too inappropriate, or when a lie told to help someone (or protect someone from harm) might be acceptable, the general consensus is that lying is wrong. However, the process of negotiation is inherently deceptive often on multiple levels. For example, if the other party asks what your bottom line is, either you don't answer (i.e., withhold information—a "sin of omission"), or you are vague and obfuscate or imply that your position is a strong one (i.e., deception—a "sin of omission" and a "sin of commission"), or you bluff and actually answer the question but with an inaccurate answer (i.e., outright lying—a "sin of commission"). Now, depending on the particular negotiation context, the specifics of the situation, and even the attitudes and cultures of the people involved, those possible behaviors may be entirely appropriate. Thus, throughout this book, we are not prescribing rules; rather, we pose questions to ask so that you can make sense of what you think legitimate behavior would be.

For example, in the United States, giving preferential treatment to social connections (e.g., friends, family) with respect to contracts and employment is frowned upon or illegal. In China, the concept of *guanxi* implies an obligation to give preferential treatment to those in your social network with respect to contracts and employment. Neither is universally "right," but both guide what ethical behavior means in that cultural context.

If you were negotiating for a job at a major firm, say, a large investment bank in New York City, it would almost certainly be considered inappropriate to outright lie about your education (e.g., claim to have degrees or certifications you do not have). However, exaggerating your abilities or skills in certain areas may or may not be considered inappropriate. One interviewer might see an exaggeration of skills as being a sign of the kind of ambition and drive that an investment bank wants, whereas another might perceive the exact same behavior as evidence of weak moral fiber. It is up to you to discern what is expected and appropriate in the context and behave accordingly.

Finally, there might be instances where lying would not be considered inappropriate. Suppose you do not have any other job offers from competing investment banks, but when negotiating salary, you suggest that the employer would have to offer you $10,000 more to make you pick them over other offers. Again, some observers might consider such a "bluff" to be entirely acceptable negotiating behavior, whereas others might consider it dishonest and unacceptable. If such a bluff is used, even the manner in which it is done can be the difference between someone perceiving it as dishonest or not. In other words, if a claim is made of a specific competing offer that doesn't exist, it obviously runs a greater risk of being perceived as dishonest than if you make a vague suggestion that you might have other options to consider.

The previous examples highlight two important aspects to ethics. The first is that the perception of something being ethical or unethical can depend on a lot of different factors both *between* contexts (e.g., buying a rug in a Turkish bazaar vs. negotiating with an investment bank for a job) and *within* contexts (e.g., lying about your degree vs. lying about a competing offer).

The second aspect is that the perception itself can depend on a lot of different factors, most based on the individual differences (in beliefs, values, attitudes, etc.) among people observing the same behavior. Because there is no rule, we advocate for people to have a clear personal standard.

Another consideration related to the importance of context is the question of who you are negotiating with. In the job negotiation with the investment bank, if you are negotiating directly with the team lead that you will be working with for the next several years, you may be more reluctant to use some tactics (such as bluffing, exaggerating or outright lying about other offers) than if you are negotiating with a human resource representative whom you may never interact with again once the negotiation is concluded. In a sense, the lower the perceived risk of engaging in potentially unethical behaviors, the more likely parties may be to engage in them.

Integrity is one of the most valuable things you can possess—not only in negotiations but in life. Integrity is also tied to social capital, or the value other people place in your existing relationships, as discussed earlier in this chapter. Some people would even argue that it might be one of the few things you can really "own" in that it cannot be taken from you without your permission (unlike material possessions, money, health, etc.). A reputation for integrity can be particularly valuable in a negotiation because it provides an additional and sometimes powerful source of influence. If the other party is aware that you have a strong reputation for integrity, building trust is going to be much easier than if you have no reputation (or have a negative one). As we will discuss in other chapters, trust can be a critical component in finding solutions that create value for both parties. **Integrity** essentially means that people believe you behave in an ethically laudable way. Integrity is also something that leads people to respect you. People are much more willing to help and accommodate those whom they respect as opposed to those whom they do not.

Bad Apples or Bad Barrels?

The reason that having a personal standard is important is that many examples of unethical behavior and ethical lapses are not necessarily the result of "bad" people or individuals who consciously decided to do "bad" things but are often the result of people in an unfamiliar context or situation who end up behaving in ways that they would not have done in other situations.[11] The field of social psychology is replete with examples of how the situation can be a much stronger predictor than personality, values, or any individual internal characteristics. Well-known examples are the studies on obedience by Milgram, the studies on conformity by Asch, and the studies on bystander apathy by Darley and Latané.[12] In all of these research studies the context led individuals to behave in ways that they would not have otherwise.

Our argument is that the more you have carefully thought about ethical issues that may arise—both generally as well as specifically in the negotiation situation you are about to enter—the less likely you are to be swayed into behavior that might be inconsistent with your values or that you might later regret.

As an example, imagine that on behalf of your company you have traveled to another country to negotiate the sale of some raw material to a local manufacturer, and one of the officials you are meeting with on your trip is from the customs agency. Suppose that during your discussions with this person, you get the clear impression that you are being asked for a bribe to “facilitate” your product getting through customs and prevent it from being unnecessarily delayed or stuck in bureaucratic limbo for months.

Our purpose in this book is not to tell you, the reader, what you *should* do in that situation. We have no basis for providing the “correct” answer that can supersede your personal views on ethics and morality. Some people reading this book would not hesitate to pay the bribe, whereas others would categorically refuse to do so based on principle; still others would try to find some other way to solve the problem, perhaps by hiring a local who understands the local norms and expectations to manage the situation.

What we are telling you, however, is that having a clear insight into your personal standards, and an understanding of what you are willing to do and what you will not do, will help you resist undue influence that the situational context might provide. Following the previous example, if you plan to do business with officials in a foreign country, you must not only have an understanding of how behavior is perceived and interpreted in that culture (to avoid misperception and miscommunication that might result in an incorrect judgment of unethical behavior) but also have made decisions ahead of time in terms of what you are willing and not willing to do. Agreeing to pay a bribe to help your company succeed in the specific situation will not be useful if you are fired by your company the following week for violating their policy.

A rule of thumb that is often useful when faced with a difficult decision or ethical dilemma in a negotiation (or in any situation, for that matter) is to ask yourself if you would mind if your friends or family knew about your behavior in the negotiation. It’s essentially the “billboard” test: If you would not mind your behavior described on a giant billboard in your hometown, then it almost certainly doesn’t violate your personal standard. However, if you would be embarrassed and mortified if such a billboard were put up after the negotiation, then you may have violated your personal standard. When faced with a difficult choice, thinking about such questions might help you figure out what course of action is appropriate for you.

Chapter Summary

The reason so much negotiation teaching and research is focused on *understanding* the other side is because it does not come naturally to negotiators. The basic human instinct is to protect your resources and “fight” with the other side to *convince* them as much as possible. You should know, however, that there is another way to negotiate, a way that will likely get you even better deals and bring you more value—taking an understanding approach. The path through understanding is difficult because you have to collaborate with the person you initially thought you would be fighting with. This willingness to be vulnerable will open the door to many types of agreements not previously possible. The concepts of background participants, observers, interests, positions, issues, value, and the understanding and convincing approaches will be ones we refer to repeatedly throughout the book.

Discussion Questions

Consider the following scenario happening in the Belk family:

The Belk family has four members: parents George and Michelle and their two children, Adam (2 years old) and Katie (6 years old). George is a teacher in the public schools and commutes about 30 minutes to work. Michelle, his wife, is a marketing executive for a small consulting firm and also commutes about 30 minutes. Michelle works in the office 4 days a week and at home 1 day. Michelle has recently gone back to work after caring for Adam at home since he was born.

The Belk family have found themselves in a conflict about what to do regarding child care for Adam. Currently Katie, in kindergarten, is dropped off at school at 7:30 am and picked up by George at 4:30 pm. The conflict has arisen over how much to pay for child care and where to send Adam, with Michelle willing to pay more than George.

In anticipation of talking with Michelle, George spoke to his parents, who told George that couples in their neighborhood pay about $600 a month for child care for a 2-year-old. George also spoke to a coworker who lives close by who has a neighbor providing day care for $800 a month. Going to their neighborhood is too far for them to travel, however. Michelle, in contrast, has researched one local day care center, KidTime, which charges $1,000 a month. To date they have not found any neighbors who currently offer day care.

Michelle prefers KidTime because it is close to their house, so either one of them could take Adam in the morning and pick him up in the afternoon. George's target price is $600, and he is willing to pay between $500 and $800. Michelle doesn't know that George wants to buy a new car, and paying more for daycare will put that purchase in jeopardy. Michelle's target is $900, and she is willing to pay $700 to $1,000. She thinks they have to pay a minimum of $700 to get quality care for Adam. Here are the discussions between Michelle and George.

Michelle: We need to solve this child care situation. My mom is leaving next week, and we have no plan.

George: Yeah, I know. I've seen the KidTime brochures you've been leaving around the house. I don't know if we can afford that.

Michelle: But it's everything we want! After seeing these awesome brochures, I went to visit the place on my way home from work and found it amazing! They have rubber mats everywhere, slides for the kids, even a pretend farm that the kids can play on! A farm! Just unbelievable!

George: Well, what snacks do they give?

Michelle: Uh, I don't know. I didn't ask.

George: Who works there? Are they college students, or are they more experienced providers?

Michelle: I'm not sure.

George: I'm not comfortable spending our entire savings on $1,000 a month at KidTime. If we could limit childcare expenses to $800, we'd be able to put more money into Adam's college fund and save for a new car.

Katie: Mommy, Adam put a raisin up his nose! Help!

George: Go help the kids. I'll do some research, and let's talk tomorrow, OK?

(The next day)

George: I've looked around a bit and found another place, ToddlerCare, that is only $900 a month. I know it's more than I want to spend, but it will still save us $1,200 a year versus going to KidTime.

Michelle: Where is it?

George: It's about 20 minutes away, and it's on the way to your office. You could drop off Adam around 8:00 am and one of us could pick him up in the afternoon.

Michelle: What's it like?

George: I went on their website to get all of the relevant information. They have a staff-to-student ratio of 5:1; they only give organic, nonsugary snacks; they have no staff under age 25; and everyone has at least 5 years of experience. They also do not have infants in the facility, which means more attention is paid to the kids. This is important to me; I want Adam to get a lot of attention.

Michelle: Do they have a pretend farm?

George: No, but they do have plenty of toys and an outside play area for when the weather is nice.

Michelle: I suppose we could go take a look. Thanks for doing that research.

(The next day)

Michelle: I've been thinking about this, and I have a bigger concern after talking to my friend Janice at work today. She kept talking about how her kid was sick all the time when he was in day care, and I'm wondering whether a day care center is a great situation or not.

George: Why didn't you say this *before* I did all this research?

Michelle: I'm just being honest.

George: But Janice is a hypochondriac—because she's always sick maybe her kid is always sick.

Michelle: Yeah, I know, I thought of that too, so I went online and found an article that says kids are twice as likely to get sick in day care centers as they are at home.

George: How could we keep him at home, though? You want to go back to work.

Michelle: Well, what if we get a nanny for 4 days and I keep him the fifth?

George: Can we afford that?

Michelle: Well, I didn't think so, but I looked into it, and nanny prices for 4 days a week seem to range from $600 to $900 per month. With my flexible schedule I should be able to make that work.

George: I don't know if I'm comfortable leaving my kid with a stranger.

Michelle: We can get references and do interviews, and if we don't like the nanny, we can either switch or go to one of the day care centers.

George: How can I help find a good one?

Answer the following questions based on the scenario:

1. Who are the parties at the table?
2. Who are the background participants?
3. Who are the observers?
4. How do the background participants and observers influence the negotiation?
5. What are Michelle's interests?
6. What are George's interests?
7. What are the obvious issues in the negotiation?
8. What are the potential issues in the negotiation?
9. What are the positions brought up in the negotiation?
10. What's the ZOPA?
11. What's George's ethical dilemma, if any, in this negotiation?

Putting It Into Practice

1. Find a public dispute (one being written about in the media), and infer what the interests and the positions are. Report these to the class along with the evidence for your inferences. State why it is important in this negotiation to separate the interests from the positions.
2. Think back to a negotiation you were recently in. Answer the following questions and report your answers to the class.
   a. What were your interests? How were they reflected in your desired positions?
   b. What were the other party's interests? How were those interests reflected in their desired positions?
   c. Why was it helpful in this negotiation to understand the distinction between interests and positions?
   d. What were the issues negotiated in this negotiation? Of those issues, which were obvious issues, and which were potential issues?

e. If you negotiated over money or some other quantifiable item, did you have a positive ZOPA? A negative ZOPA? How do you know? How did this ZOPA affect the negotiation? Did you have to try various tactics to reach resolution?

Key Terms

Agents

Background participants

Bargaining mix

Claiming value

Convincing

Creating value

Distributive agreemen

Integrative agreement

Integrity

Interest-based question

Interests

Issues

Multiple-issue negotiations

Observers

Obvious issues

Offer

One-issue negotiations

Parties at the table

Position

Potential issues

Resistance point

Social capital

Tangible interests

Understanding

Value

Zone of potential agreement (ZOPA)