The Deceptive Simplicity of Teaching Negotiation: Reflections on Thirty Years of the Negotiation Workshop

Bruce Patton

What is required for effective teaching depends on the goal of the effort, and our criteria for success should be much more demanding than positive ratings from participants. If the goal is to improve participants' effectiveness as negotiators, we need a proven theory and associated skills. In the absence of robust confirming empirical data, which is still mostly lacking, we can take some confidence from qualitative evaluations. But whether or not we have a proven theory, the pedagogical task is complex and challenging, calling for a variety of sophisticated techniques deployed by a skilled instructor committed to joint learning. This article tells the story of some of the instructors' pedagogical learnings in thirty years of teaching the pioneering Negotiation Workshop at Harvard Law School, many of which now have empirical support. It also suggests some areas and tools for more experimentation in future advanced courses.

Key words: negotiation, negotiation training, negotiation pedagogy, advanced negotiation, negotiation teaching goals, negotiation teaching effectiveness.

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Why Are We Teaching?

Negotiation seems easy to teach. Google lists almost twelve million hits for "negotiations training." But this ease is deceptive. Because negotiation is much more active than most courses, participants are inclined to find it fun and give it favorable "smile sheets."[1] But many of us have had the experience of former students telling us how much they learned in our course and then discovering that *what* they say they learned bears no resemblance to what we thought we were teaching.[2] So in thinking about negotiation pedagogy, we need first to think about how we measure success. Only once we have defined our goal can we begin to explore how best to achieve it.

There is, of course, no single goal in teaching negotiation, which means a teacher must make important choices when designing a course. Teaching people what has been learned from negotiation research is different from teaching them to analyze or prepare for a negotiation, and different again from making them more effective negotiators, just as a course on the history or the physics of bicycle riding is different from developing the fitness needed to ride and entirely different from learning *how* to ride a bike. As Chris Argyris demonstrated, there is a gap between knowing and doing, although we are not always aware of it (Argyris, Putnam, and Smith 1985), and imaging studies of the brain show how different kinds of memories and skills are associated with different brain structures. Connecting what we know and what we do — becoming reflective and aware in the moment — requires hard work and practice to build the new neural pathways that underlie the development of such skills.

The Negotiation Workshop that Roger Fisher, Bill Ury, and I pioneered thirty years ago at Harvard Law School focused on making people better negotiators mostly because that seemed most important to us. But it is also true that there was comparatively limited research on negotiation with which to teach a more traditional course.

Today the environment is quite different. A great deal of research about how people tend to negotiate and the results they achieve, at least under narrowly defined laboratory conditions, is now available. And the academic climate is less hospitable to content that is not empirically based. But because there is relatively little research on what people *might* do (as opposed to what they actually do untutored) and on what is comparatively effective (Movius 2008), a course focused on research results is likely to be far removed from the experience of exemplary practitioners.[3]

From my point of view, this would be a problem only if courses focused on such research came to dominate courses with other foci. In that case, I would argue that the bias in research toward measuring what is (in controlled and often arguably unrealistic contexts) versus what might be and how to create it was not well serving the needs of many students and the community.

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One advantage of courses focusing on knowledge transfer is that it is comparatively easy to measure success. Traditional "issue spotting" or regurgitation exams work fine. If the goal is to teach people to analyze negotiation situations or prepare effectively, the measure of success is a little more challenging but still easily managed. While there may be disagreement about the relative importance of different issues and different approaches to framing and categorizing negotiation dynamics, these are certainly easy to discuss. And a group of readers will usually reach a consensus on the most persuasive analysis even if they cannot completely explain their choice. But how do you measure negotiators' effectiveness and/or their *increase* in effectiveness as the result of a course?[4]

Measuring results is certainly one approach, but you need data from multiple iterations to account for interaction effects between different contexts and counterparts. Moreover, traditional scorable exercises reduce the role of creativity, which may be some negotiators' greatest strength, while scoring other exercises presents the challenge of coding divergent results in some rigorous and repeatable way. Observing actual behaviors, more or less rigorously, and tying them to outcomes offers a more robust method of assessment but still leaves many questions about causal links (and of course presents enormous practical challenges). If the teacher advocates a theory that includes different categories of approaches, associated skills needed to be effective, and scales or descriptors with which to evaluate the level of skill or finesse in implementation, then observational measurement should, theoretically, be robustly correlated with actual effectiveness, *but only to the extent that the categories and skills in the theory are valid*. For example, if you have categories of "positional bargaining" and "problem-solving negotiation" and associated skill sets required for effectiveness in using those approaches, one can watch students and rate their ability to produce the requisite skills. And this would correlate with effectiveness if those categories and skills had been shown to be effective.

Unfortunately, absent better research on what is possible and effective under real-world conditions (what is known as "action research") (Argyris, Putnam, and Smith 1985; Edmondson and McManus 2007), this seems tautological: "You're effective because you are doing what I think works." In fact, however, I think the situation is somewhat less dire. First, there is now *some* research suggesting that students trained in a problem-solving approach gain in effectiveness as negotiators (Tinsley, O'Connor, and Sullivan 2002; Berger, Kern, and Thompson 2003; Kray, Thompson, and Lind 2005). But second, I believe that a diagnostic or prescriptive theory can be evaluated to some extent in other ways. We should be more inclined to give it credence, for example, if it represents a consensus view of sophisticated observers with diverse mental models. (As Malcolm Gladwell 2007 reports in *Blink*, our intuitive insights are often very powerful although sometimes also suspect as the result of unconscious prejudice. The odds of

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an insight being reliable should go up to the extent that it is shared by those with diverse perspectives who are less likely to harbor the *same* hidden prejudice.)

Likewise, the more robustly a theory explains observable phenomena *and* holds up to close logical scrutiny in light of all that is known, the more it is worth taking seriously, even if not as gospel. In the same vein, the more the precepts appear to be replicable, teachable, and correlate to the predicted results (in the consensus view of sophisticated observers with diverse perspectives), the more some confidence is justified. Such theories may not ultimately prove to be perfect, but neither are they likely to be meaningless.

Put another way, not all inductive theories are created equal. They can be sorted and evaluated qualitatively, even in the absence of rigorous empirical studies of effectiveness, and the credence people in fact give to the more high quality of these theories is not *ipso facto* inappropriate. The insights of *Getting to Yes* (Fisher and Ury 1981; Fisher, Ury, and Patton 1991a) far outstripped the available empirical evidence but rang true immediately to many and are for the most part holding up well as empirical studies accumulate.

So for purposes of thinking about pedagogical developments over the last thirty years, I will focus on the goal of developing negotiator effectiveness and assume that the available theories and associated observational categories and skills are good enough to have significant value to students. Within that frame, and with similar caveats for the *how* of teaching as we have discussed for the *content*, what do we think we have learned about effective teaching since Roger Fisher first taught "Theories of Negotiation" in 1979 and the "Negotiation Workshop" in January 1980?[5]

Teaching Effectively

Create Robust Exercise Instructions

One of the first discoveries we made was that good exercises were not as easy to write as some had assumed. This became apparent as our vision of negotiation and the ways it could be carried out expanded. Most of the exercises existing when we began the workshop were set in realistic scenarios but had instructions that offered priorities and objectives with little in the way of underlying rationale, little information about alternatives to agreement, no objective standards, and typically no contextual information from which one might derive such standards or set off to do research. The clear process expectation was more or less arbitrary haggling.

In the first year of the workshop, this did not seem to be a problem. Students found exercises such as *Ampo v. City* (Raiffa 1982) "very realistic," just as legions of business school students had before them.[6] As our discussions began to consider the role that legitimacy and criteria might play

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in negotiation, however, such exercises suddenly became the targets of intense criticism as "completely artificial" because they lacked the nuanced context of the real world.

We also discovered early on the different levels of "role playing" and what we could realistically expect of participants. Some exercises instructed students about the mental state and/or personality of the negotiators as well as their objectives. "You're very angry about what happened and tend to say exactly what you're thinking." This was not only difficult for most students to enact; it created a blurry line between acting and experimenting. Most participants were capable of one or the other (acting as a party in a mediation, e.g. or being themselves negotiating).

Today we expect a good exercise to provide a thorough explanation of a party's interests and the back story behind them, an appropriately rich context for examining the legitimacy of possible options (either actual criteria or a context for research), and clear information about their best alternative to a negotiated agreement (BATNA) and its value. We avoid telling participants how to be or act (unless acting is their role), focusing instead on telling a compelling story likely to make certain perceptions or approaches seem appropriate. Creating such an exercise takes quite a bit of work!

Combine Exercises, Theory, and Open Inquiry

When we began the workshop, much existing negotiation training placed a heavy emphasis on realistic simulations (e.g., in the Pentagon), and most of the first year of the workshop was devoted to exercises and review. Participants found the practice helpful and the quality of the review was high, given that Fisher was the facilitator. But the overall coherence of what participants took from the experience (and therefore its applicability in other contexts) was not as high.

The workshop's second year was contemporaneous with the writing of *Getting to Yes*, and workshop sessions were organized around exercises *and* key themes from the emerging book, but with a completely open stance toward the ideas, which we were still testing. That workshop produced a remarkable number of people who are still in the field as academics, trainers, or professional negotiators. The quality and coherence of participants' reflections was extremely high, which underscored the value of supplementing learn-by-doing experience with high-quality organizing concepts that help participants make better sense of their experiences.

By the third year, of course, *Getting to Yes* had been published. The workshop was structured similarly to the year before, but with the book newly in print, the sense of openness and joint inquiry that had characterized the prior year disappeared. The depth and quality of participant reflections suffered, although they remained far more coherent than the first year. And overall, the experience was a little boring for everyone and less fun.

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It turned out that — just as in negotiation — "selling answers" was less engaging or persuasive than wondering together about good questions and jointly exploring tough problems.

Thereafter, we assigned *Getting to Yes* to be read before the course started but worked hard to structure the workshop around open questions, especially about how to negotiate. Indeed, we tried to make our commitment to joint inquiry palpable by publicly tearing up a copy of the book in the opening session of the workshop. The core question became not what the *right* approach to negotiation was but what the *advantages and disadvantages* of various approaches were, what they required for success, and thus when they would be most appropriate.[7]

This renewed focus on joint inquiry demanded genuine openness from the faculty for success. This led us to recognize the importance of congruence between the purpose and content of the discussion and the faculty's stance and mode of conduct in the class (Patton 2000), a higher and more challenging behavioral bar than that presented by a traditional knowledge transfer course. Holding students accountable for rigorous and high-quality reflection (using directed dialogue) without stifling participation by causing them to feel stress and embarrassment, for example, requires just the kind of direct yet respectful side-by-side engagement called for in on-the-merits problem-solving negotiation. In some ways this stance is also easier for the instructor. Rather than argue for one view of the role of culture in negotiation, for example, the question becomes one for general exploration and discussion. Tough questions are more prone to stimulating reflection when the person asked to answer them does not feel pushed in ways that challenge his autonomy (Fisher and Shapiro 2005).

As we expanded the workshop (eventually to 144 participants), we inaugurated "working groups" of twenty to twenty-four students in which most exercises and discussion occurred. Rather than hire lecturers, we chose to have these smaller groups facilitated by student teaching assistants (TAs) (chosen from workshop graduates) with no grading responsibility. While Fisher or I would visit these groups regularly, a good portion of the sessions occurred with neither of us in the room. We found that whatever the disadvantages of having participants spend less time with senior faculty, they were greatly outweighed by the freeing effect that our absence had on student thinking. With faculty in the room, students focused on what they thought we wanted to hear. With us absent, they focused on thinking about their experiences and the possible lessons they could learn from it. Perhaps because our TAs were law students and also because their role was expressly not to convey content, they were terrific at facilitating rigorous, high-quality inquiry and reflection in these discussions. The quality of students' written reflection markedly improved.

Following a number of core procedures helped the TAs accomplish their task. First, they would prepare for a session by designing good open

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questions to stimulate discussion and thinking through as many as ten possible themes that would be appropriate to explore — with the expectation that they were likely in fact to discuss only three or four of those themes, choosing which ones along the way based on participants' answers to the stimulus questions. Second, they were trained to record comments on flip charts to help people feel that they had been heard and to do so in a way that could tell a reasonably coherent narrative to someone who was not there. Third, they always kept in mind the options of "going deep" or "going broad" in response to a participant comment. Going deep meant digging in for better understanding — asking the participant to climb down the "Ladder of Inference" (Argyris, Putnam, and Smith 1985) from abstract to concrete, or to consider the limits of their arguments: "What exactly did you say?" "What did they say in response?" "What are the requirements for that to work?" "Under what conditions would that likely *not* work?" Going broad meant soliciting the views of other participants — another way to test propositions and a way to avoid playing to the lowest common denominator or loudest voice: "Who sees it differently?" "Does everyone agree with that?"

Focus on the Big Picture

In the very first workshop I designed (year two), the great downside of organizing the course by themes rapidly became apparent. Students trained through a lifetime of finding the "right answers" would quickly hone in on the "theme of the day" ("Oh, it's Options Day") and produce relevant insights. But those insights would seem to have no lasting impact on their awareness or behavior anytime later. They were not building a coherent and integrated framework of awareness or analysis but merely producing short-term isolated insights and then more or less forgetting them.

This experience led us to design the course more as a series of iterations with increasingly difficult negotiation challenges. While we might choose to focus primarily on one or two themes for a given exercise, some time would likely be spent relating back to prior discussions and surfacing questions to be pursued later. Everything was always on the table. Obviously, this shift fits well with the research on teaching through analogical reasoning, which suggests that people better conceptualize experience in ways that allow them to bring their learnings to bear on new problems when they are challenged to compare and contrast experiences with similar dynamics but different contexts. (See Movius 2008 and McAdoo and Manwaring 2009 for a review of this literature.) So we are constantly asking things such as "Why did [something] work here but not in the last case?" or "How could one do something similar in a case where . . .?" or "What would you need to do in preparation to be able to execute that move effectively?"

In place of prescriptive themes such as "invent options for joint gain," we began to develop the seven-element framework of core variables at play

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in negotiation (Fisher 1983; Patton 2005).[8] This offered an all-purpose but prescription-neutral framework for understanding what was happening in a negotiation and thinking through options for what to do about it. It could be used to define a good outcome, structure preparation, categorize "systems" and tactics, and generally organize all insights. And it was equally useful whether applied to positional bargaining, principled negotiation, or any other approach.

Because there is obviously no one "right" way to organize ideas, it was easy to offer the framework and invite participants to try it out without ever suggesting that it was the only way to think. Indeed, as we collected them, we offered other approaches (the "three tensions" [Mnookin, Peppet, and Tulumello 2003], the "three dimensions" [Lax and Sebenius 2006], and the idea of "creating doubts," which I first heard from Tom Korologos in the 1980s) and invite participants to think about what is more or less useful about each and for what purpose(s) it would be most helpful.

Having developed the seven-element framework, Roger Fisher and I began to use it ourselves to think through the terrain of a negotiation as we prepared for real situations on which we were working. We developed a set of all-purpose questions relating to each element in turn that seemed helpful to ask in thinking about *any* negotiation (Patton 2005). While consistent with the idea that these are (the) seven core variables at play in negotiation, it still seems both surprising and powerful that a single set of questions can be relevant in all contexts, and the answers to those questions can help a negotiator craft an approach tailored to the unique characteristics of each situation.

In teaching this tool, we simply suggested that participants should try it out and decide for themselves whether it was helpful. This led to the activity we call a "facilitated preparation by side." We schedule time for those on one side of an upcoming negotiation exercise to meet together and collectively think through the seven-element preparation questions with the facilitation of a TA or instructor. After some discussion, we decided that for the first such activity the teacher or TA facilitator should feel free to participate actively in helping participants find high-quality answers to the questions. He or she could do this by asking questions, or even by suggesting possible answers. The goal was to enable participants to have the experience of engaging in a negotiation while feeling well prepared. Most have found this a profound and attractive experience, helping them see the value of preparation in general and strongly motivating them toward taking a systematic approach in the future. While we clearly think this is effective, our teaching focus remains open. In debriefing the negotiation, we simply take time to note the time spent preparing and ask, "What was the impact of that effort on the negotiation?" And, whatever the response, "Why?" and "What would you do differently, if you were doing it again?"

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Another change that has occurred over time is a shift in emphasis from the exploration of detailed guidelines for enacting various negotiation approaches to seeking to bring alive the *gestalt* of an approach; we now focus more on demonstrating guidelines rather than on discussing them. I now construct the "Circle of Value" as a problem-solving approach (Patton 2004, 2005) in courses by focusing on the idea of exploring — side by side without commitment — ways to create and distribute value as well as ways to build a relationship by remaining respectful even when the parties disagree. I may act out briefly what this could sound like but then move directly to a videotaped example, and indeed typically one where the other side is making strong "claiming" moves, such as the segment of the *Getting to Yes Video Workshop on Negotiation* (Fisher, Ury, and Patton 1991b) in which a sales team whose members believe that their deal is closed is unexpectedly confronted with a buyer demanding an additional 15 percent price reduction. This use of modeling is consistent with the research on observational learning (Movius 2008; McAdoo and Manwaring 2009).

The other approach to modeling we try to use, of which I have written before (Patton 2000), is to seek real-time interactions with students in the workshop to use as opportunities to bring theory alive.

Focus on Micro-Skills

While a nuanced appreciation for the interconnected and gestalt themes of negotiation is critical to sophisticated analysis and practice, it was also plainly insufficient to enable participants to put their insights into practice skillfully in many contexts. People could understand the critical value of active listening, for example, explain the "rules" governing how it works, perhaps even skillfully critique another's performance, but still not be able to produce a credible alternative themselves, especially under conditions of emotional complexity and stress. To enable this level of performance we have found it necessary to break the skill down into specific "micro-skills," carefully practice each of those, then practice combining the micro-skills to produce the target skill and do so under increasing levels of challenge.

With active listening, for example, we give participants a simple two-sided scenario and ask one (the "talker") to initiate conversation provocatively. The "listener" is then tasked by a "coach" with producing, on command, a good demonstration of one of three micro-skills: inquiring, paraphrasing meaning, or naming and demonstrating empathy with feelings. This is repeated until the listener understands the difference between the three and can produce one or the other cleanly on request. Next, we allow the listener and the provocative talker to have a conversation in which the listener can combine the micro-skills or other skills in any way the listener wants, as long as the listener does not reveal in any way his or her own view. We give the talkers and the coaches an unpleasant imaginary

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buzzer and have them "buzz" the listener whenever the listener accidentally reveals his or her own views (saying, e.g, "I'm so sorry"). Most listeners rapidly improve their ability to avoid the buzzer, in effect building a kind of "advocacy detector" in their brains that helps them avoid unconsciously "spinning" their listening.

To prepare participants to deal effectively with potentially difficult tactics, we have them practice redirecting the conversation by reframing statements of commitment or personal attacks to statements of interests, questions about legitimacy, discussion of possible options, a negotiation over the "rules of the game," and such. Sometimes we turn this into a game show format with teams and award points for more or less effective answers and for correctly diagnosing others' incorrect answers.

I believe these exercises build and reinforce specific neural pathways in the student's "repertoire brain," that part of the brain where they store their action repertoire (different from where they store other kinds of knowledge). It often takes serious effort to produce a specific protocol of words and actions for the first time, but doing so becomes rapidly easier with practice. Later, under pressure, the brain favors neural pathways that are strong and well established.

I often use what might be seen as rhetorical questions to achieve a similar result, explaining what I am doing explicitly: "I'm asking you to try to answer this question, not because I don't have an answer I like and not to play games, but because trying to think through the answer yourself requires you to build the neural pathways you'll need to put this information to use and to think about things like this while you are negotiating." For example, I confirm with participants that they, like me, have had the experience of making an agreement in negotiation and then regretting it (independently of receiving any new information), suggesting that the goal of negotiation is *not* agreement. "So let's say, then, the goal is *not to reach agreement unless*. . . . The question is, unless what? How do you decide when it makes sense to reach agreement?"

A simple guideline is to look for ways to have people practice anything they will need for success that is not already an effective part of their repertoires. This would include anything from analyzing situations (case studies) for game-changing moves (to take advantage of "setup" insights, see Lax and Sebenius 2006) to learning how to recognize when your own "internal voice" (Stone, Patton, and Heen 1999) is toxically unsafe to share and practicing negotiating it into a more nuanced and legitimate place.

Give People the Help They Need to Change

Teaching people to negotiate presents a fundamentally different pedagogical challenge from many courses because most participants have been engaging in negotiation activities since they were babies: the participants' minds are not "clean slates." They have preexisting repertoires of cognitive

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categories and interactive skills, many of which are outside their awareness. The implications are many.

First, in line with what we know about the creation of neural pathways, it is easier to amend and supplement an adult's repertoire than to replace it wholesale. Again, we have found transparency helpful in the Negotiation Workshop. We point out that people have an existing repertoire and that it must have worked pretty well for our students to have achieved as much as they have in life. "Still, we know enough about the cognitive errors to which people are prone to know that our implicit and self-taught repertoires are limited," we explain. "For example, we tend to overgeneralize from our own experiences. Practitioners need to simplify things to act and left to our own devices we end up with guidelines that are overly simplistic — they work sometimes, but get us in trouble at others." So the task becomes trying to figure out what our repertoires are good for and where they need to be supplemented with new ideas or finer distinctions.

Second, the fact that people have existing and partly unconscious behavioral repertoires means more than ever that teaching is not something the faculty can really "do" to participants. Participants have to be willing to reexamine and consider changing their existing assumptions and behaviors, and they have to choose to practice new ones. It is a joint endeavor. Once again we have found it helpful to be transparent and explicit about this: "Sometimes we find people thinking, 'OK, I've heard it's a lot of work, but everyone says it's worth it, so here I am. Do it to me.' Well, sorry. It's not a massage parlor. We *can't* do it to you. Improving your repertoire, like improving your golf swing or your tennis stroke, is something you have to choose to work on and be willing to experiment with. And we all know the first thing that happens when we try to adjust something like a golf swing — we get worse before we get better. We can create opportunities and offer advice, but the choice to take advantage and make the effort is up to you."

The most important implication of an embedded existing repertoire, however, is that it can require help to change it. Especially to the extent that behavior and assumptions are outside our awareness, we need help in teasing them out into the light of day. And different students will predictably need different kinds of help to account for varied learning styles and levels of cognitive development (see Manwaring 2006). Even more important, while we can enact new behaviors while we are focusing on them, we will tend to fall back into old patterns when our awareness is distracted, perhaps by a "hot topic" (Edmondson and Smith 2006). To effectively transform our repertoires, we need to enlist the aid of others to point out — in the moment — when we fall back on old behaviors so that we can build and strengthen the new neural pathways needed both to enact the target behavior and to monitor our success.

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Direct observation or video review is a traditional tool for working with participants to reflect on their existing repertoires. Gerald Williams's *Medianotes* software tool, which uses laptop computers and web cams to capture video and allow its review, annotation, and sharing, makes this easier and cheaper in many ways (Williams, Farmer, and Manwaring 2008). Personality assessments such as the Thomas–Kilmann Conflict Mode Instrument (Thomas and Kilmann 1974) are another tool for stimulating reflection, as are scorable games and various short "aha!" exercises.

Peer review and faculty coaching are tools for helping participants amend their repertoires. In the Negotiation Workshop we created the Interpersonal Skills Exercise (IPS) (Bordone 2000) as a vehicle for faculty coaching. (We also sometimes add family therapists to the coaching mix.) In preparation for IPS, we ask participants to pick a difficult situation (real or imagined/feared) involving primarily one other person that they are not sure how to handle but that they suspect other people would not find as difficult to manage. We then ask the participants to think about which peers they sense might be able to play the role of the other person in their scenarios and who in the group they sense might not find the situation so difficult and so might be a good "coach." We then ask the group of participants to divide themselves into an appropriate number of triads that meet these conditions, making clear that this is different from just finding a triad that works for them. (If the instructors allow half a day or a day to do this, with regular reminders, making the task one for the group as a whole rather magically avoids having incomplete triads and a few unpopular "leftovers" when it comes to signing up).

Once the triads are created, we then meet with each one in three sessions lasting a total of approximately five hours. First we meet for sixty to seventy-five minutes to learn about each person's scenario and goals, to find out what the other person in the chosen scenario (the "absent party") does that causes difficulties, and to ensure that the designated "helper" is prepared to create a credible absent party. We also negotiate strict ground rules of confidentiality and voluntariness that apply throughout the exercise.

Next we meet for three hours (one hour per person) to work each scenario, with everything recorded on video. For each person we run through five steps. First a role reversal, in which the designated "presenter" becomes the absent party in the scenario and tells us in the first person about the absent party and the absent party's views and goals in this situation. The goal is to create a real person, not a one-dimensional caricature, and our questions to the absent party can help with that, suggesting possibilities that the presenter had not previously considered. Second, before the presenter leaves the absent party role, we have the helper "double" the absent party to check and deepen both of their understandings of the absent party. Doubling is a technique developed in

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improvisational acting in which one person imagines being another and says things that he or she thinks the other might be thinking and/or feeling. The other then repeats or corrects or elaborates on the statement, saying what she or he is actually feeling or thinking about that topic. This tends to be clarifying for both participants.

In the third step, the helpers become the absent party and role-play the situation with the presenter who now plays himself or herself. We start with a "baseline" to see how it might usually go or how the presenter is afraid things will go. Then the faculty and the third participant coach the presenter in different approaches, repeating and tuning them up as needed until they seem as effective as possible. We may also do "overshoots" or a variety of other "takes" that help the presenter find and enact an effective repertoire. In the fourth step, we have the helper double the presenter to help the presenter reflect on and assess the experience. And finally, the presenter and the helper both assume their own identities and discuss what happened. The entire cycle is then repeated twice more, with each participant assuming the role of presenter in turn.

In the third session, we reconvene and watch snippets of the videotape created in the second session (which are chosen on the fly during the taping session). For each person we usually review three to five minutes of tape, often contrasting the baseline with the most effective takes. The goal is to allow the presenters to observe and assess themselves enacting various approaches and ideally to see themselves acting skillfully and effectively in ways and in a situation they could not previously have managed. As a result, if the taping session built useful new neural pathways, the review session legitimizes them in the presenter's eyes and motivates their use. The visuals also serve as an indelible record that the presenter is capable of enacting these skills, making it more difficult in the future to claim helplessness in such situations.

Not only do most participants experience some kind of epiphany in the IPS exercise, they often find that the insights generated are thematic and broadly applicable. That is, they discover that the source of difficulty and path to a better outcome that they discovered working on one scenario in fact turns out to be relevant to a whole swath of difficult situations with which they usually struggle.

The IPS exercise remains the most powerful in our repertoire. While our use is resource intensive, the exercise can be done profitably even with no instructor involvement. In that case, the coach role would become central. Participants simply need clear directions and preferably a good demonstration in advance.

Frontiers that Should Be More Familiar

Over time, we have experimented successfully in the Negotiation Workshop with a wide range of topics, skills, and contexts relevant to

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negotiation. The range and scope of this work, however, now far exceeds the bounds of a one-semester course, and much useful material is now seldom used except in an occasional advanced seminar. I believe it is time to expect a negotiation curriculum to include at least a second semester's worth of material in some kind of advanced course in addition to the usual courses on mediation and seminars on dispute systems design. Let me share some of the kinds of topics and exercises that might be included.

Deke Slims's Silver Dollars (available from the Program on Negotiation Clearinghouse) is an exercise in which a seller must choose between two possible partners with whom to market the seller's hoard of coins. The seller has learned seemingly reliable information about the two possible partners that is, in fact, biased and inaccurate. The seller determines if, when, in what sequence, and for how long to interview the potential partners and eventually must choose and make a deal with one of them. The exercise offers powerful lessons about checking assumptions based on hearsay and appearances and about the impact of process on relationships. In addition, it forces personal, sometimes even painful, generally difficult, and always useful feedback discussions (usually both ways), as the seller explains why they chose one partner over another. It highlights a gap in most curricula around sales negotiations in which buyers have plenty of alternatives and the seller's challenge is to stand out from the crowd.

Firm Policy is a two-part multiparty exercise about a law firm revising its parental leave policies.[9] In addition to the usual multiparty issues, participants are aware from the beginning that the final firm decision will be made in a meeting of twenty-four partners comprising representatives from each negotiating group. This highlights the process challenges of large-group negotiations and the importance of preparing for them in advance. Similar issues are front and center in the *Global Warming Game*, a twenty-four-person exercise created by Ted Parson and Merdad Baghai (1994; see also Parson, Baghai, and Martinez 1999), and on a smaller scale in the *Team Cash Bonus* exercise created at Conflict Management Inc., in which multiple teams must make a case for who should get a limited and indivisible performance reward, knowing that the decision will be made by a committee of representatives from each group.

A core theme of negotiation teaching is process management because process systematically and predictably affects the quality of outcome you are likely to get. While most courses explore this with care at the micro level, the challenges are much greater in multiparty situations, and many of the most important negotiations we face involve multiple parties often in public settings. Not addressing these challenges systematically seems to do our students a disservice. (It may be, of course, that people would not know exactly what to teach about this though Lawrence Susskind and Larry Crump [2008] certainly offer grist. While a *Getting to Yes* – style book on the subject may be in order, I do not think its lack should stop us from

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giving students the experience and thinking together with them about it. For additional discussion of the challenges of multiparty teaching, see Susskind et al. 2005.)

Even a little information on group dynamics and meeting design would be most helpful. The *Chestnut Village* six-on-four or five-on-three exercise (available from the Program on Negotiation Clearinghouse) provides a context for exploring the relationship between internal and external dynamics and meeting design. In the *Lego Team Planning* exercise (proprietary to Vantage Partners, LLC) teams of five to six have a bag of Legos, three graphs with profit parameters, and thirty minutes to design a profitable building followed by a competitive construction phase. By videotaping and/or designating one team member to take detailed process notes, you can develop rich data about group dynamics and effective problem solving. Among this exercise's useful lessons is that there can be a performance downside to too much organization and process control.

The *Star Power* exercise (by Brett Smith, available from 3e-learning.org) explores issues of power, group identity, and minority–majority relations in a profoundly affecting experiential format. Individuals are randomly assigned to three teams in a simple scorable trading exercise. Each individual begins with a seemingly random allocation of five jewels and is rewarded for trades that increase the value of his or her collection. Unbeknownst to participants, however, the allocations are not wholly random. One of three groups is, on average, privileged over the others in its allocation of jewels and another is, on average, disadvantaged. When results of the first trading round are recorded publicly, groups begin coalescing. When outliers in each group are then "promoted" to more successful groups or "moved" to less successful ones, a chill descends.

The process continues for several rounds until the high-performing group is rewarded with the opportunity to determine the rules for future rounds — and offered a private room for deliberations. Most groups take the room and end up tilting the rules in their favor, while most of those excluded demonize the power group and bemoan their helplessness. Seldom does the power group even anticipate the effect of meeting in private, and likewise, few of the excluded groups craft proposals and/or attempt to send representatives/observers to the rule deliberations. A few do discuss the possibility of refusing to play, but seldom agree on a strategy. All of this is rich grist for review, along with the readily observed tendency to see success as the product of one's skill and to attribute failure to contextual factors.

Star Power is one way to broach the subject of dealing with power and value differences in society and whether and how they can be negotiated, including the ethical implications of such questions. We have also used, on occasion, Gerald Williams's videotape of a plea bargaining negotiation (*State v. Bins*) to stimulate discussion on the relationship of goals and

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strategy. In the video, the defense attorney seems to go along with or play on the prosecutor's latent racial prejudice to advantage his client (he is not like those others, he is a successful college student). And in the *State v. Huntley* plea bargaining exercise (by Tim Reiser, available from the Program on Negotiation Clearinghouse) participants have to weigh technical defects in the state's evidentiary case against the likelihood that the defendant is a dangerous sexual predator in negotiating an outcome.

Bafa Bafa (by R. Garry Shirts, available from eric.ed.gov) digs deeper into the dynamics of partisan perceptions between groups as well as the impact of culture on negotiation. Each group has a different "language" and unique politeness customs and rituals, which they first practice among each other before meeting in a joint trading session. After several rounds of interaction, each group is asked to share its impressions of its own group and the other and to list similarities and differences between them. This then becomes the grist for joint review.

Finally, there are procedural options that can enrich our pedagogy. For example, having participants invite guests to prepare and negotiate one or more exercises in the course can add an excellent dose of reality, forcing participants to avoid jargon and giving them an opportunity to assess the value of what they have learned outside the sphere of like-minded colleagues. (See Groth and Glevoll 2007 for a variation on this theme.) Creating real-world assignments for participants to undertake, document, and reflect on is another way to do this and can provide good opportunities to discuss and practice the kinds of "set-up" or creating the context for negotiation skills discussed in *3-D Negotiation* (Lax and Sebenius 2006). Including exercises in which participants must generate legitimate standards through their own research takes time but offers practice in one more skill set essential to real-world results. Likewise exercises that involve actually drafting all or part of the agreement offer a context to explore not only the value at stake in how commitments are documented but also the implications of how agreements are negotiated and codified in the large class of situations in which the value of the deal is realized (or not) only through its implementation over time. These present opportunities to highlight the kinds of governance and conflict resolution provisions that can profoundly affect the value eventually realized from an agreement. (One can even role play several rounds of negotiation at different stages in the life cycle of a relationship in something like a strategic alliance to explore these issues more deeply.)[10]

Where Next?

I hope these reflections on thirty years of teaching negotiation stimulate some new experiments in teaching and perhaps some new avenues for research, as well as encourage others to share their experiences. At the same time, I hope they illuminate why I think that teaching people to

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negotiate more effectively is a much more complex and challenging endeavor than it may at first appear. The recent surge of articles in these pages on measuring and achieving pedagogical effectiveness suggests to me that perhaps others are coming to feel the same way.

NOTES

1. Hal Movius (2008) reports a lack of published data on participant reactions to negotiation training, but I have never met a negotiation teacher who reported other than comparatively great enthusiasm for their course, in noted contrast to teachers of other subjects. The Program on Negotiation's data from its pubic seminars average around fourteen on a sixteen-point scale. The Harvard Law School Negotiation Workshop has always been rated by students as among the most popular courses offered at the school according to annual ratings collected and published by the school's board of student advisors.

2. David Lax was the first person to make this point to me, saying that he sometimes worried we were selling snake oil.

3. Although Movius (2008) cites various studies showing that most negotiation courses are focused on building participants' skills, several negotiation courses at Harvard now spend substantially more time presenting research results than they did a decade ago, and faculty tend to have a more traditional scholarly background. For other types of goals a course might have, see Wade (2009).

4. For a review of the literature on this question, see Movius (2008).

5. Bill Ury worked with Roger Fisher to create the 1979 "Theories of Negotiation" seminar at Harvard Law School and then the first iteration of the Negotiation Workshop in 1980. I took over that role from Bill beginning in 1981 and designed each year's workshop from then until 1999, working jointly with Robert Mnookin in the latter few years.

6. This is according to a contemporaneous comment by Howard Raiffa.

7. For a discussion of the theoretical support for this approach and more guidance, see Nelken (2009).

8. The seven elements include the interests that each party is seeking to satisfy; each party's alternatives to agreement, the best of which we call that party's BATNA; options (possible agreements or pieces of an agreement) for satisfying the parties' interests, if they can agree; standards and principles of legitimacy likely to affect the attractiveness and acceptability of various options; the quality of the working relationship between the parties; the degree and form of actual commitments to do something; and the process of communication used to address all of the above.

9. This exercise was created by Jonathan Greenberg and Robert Mnookin at Stanford Law School and revised at Harvard Law School. It will be available again soon through the Program on Negotiation Clearinghouse.

10. For more discussion of the relationship between the negotiation process and the value realized in deal implementation, see Ertel and Gordon (2007).

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