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Introduction:
A "Canon of Negotiation" Begins to Emerge

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The White Rabbit put on his spectacles.
"Where shall I begin, please your Majesty?" he asked.

"Begin at the beginning," the King said gravely,
"and go on till you come to the end: then stop."

Lewis Carroll, Alice's Adventures in Wonderland, 1865

Perhaps concerned about falling down the White Rabbit's proverbial hole, most readers tend to apply the King's advice to themselves, and to treat books as a straight-line proposition. This book, however, is designed to reward different ways of approaching it, depending on who you are.

If much of your everyday work is negotiation or mediation and you're faced with an all-too-real negotiating problem every week, we believe you will find here the most comprehensive available reference work on negotiation. This book is a working tool that can help you figure out quickly what went wrong in yesterday's meeting, and how to fix it in tomorrow's follow-up. And if you see your needs primarily in those terms, you will be in good company. The wisest and most experienced of negotiators will often admit that at certain critical moments, they simply do not know what to do.

And negotiation skills are clearly needed more broadly than just by working professionals, in a world in which small manufacturers find their customers and their suppliers on the far side of the globe; in a world in which lifetime stability of employment has been replaced by successive negotiation for new jobs; and in a world in which prenuptial agreements and mediated divorces flank a noticeable percentage of marriages. On a larger level, those who advance concepts of peacebuilding, as a matter of morality or as a matter of political will that "peace must be waged," increasingly recognize that the work of peacemaking requires negotiation at many levels. In many other settings, there is growing understanding that negotiation can help achieve the maximum results with the minimum long-term cost.[1] Readers with any of these interests might also logically see this book primarily as a reference work, and one to keep close at hand.

Meanwhile, the intellectual basis of the field is now wide, multidisciplinary, and deep. The diversity of sources and of uses, however, has created a trap. No one, literally *not one* negotiator or scholar of the field, has truly been able to keep up with all the new knowledge, while the drive to establish negotiation as an essential practice in law, in business, in planning and in other professional practices has created an impetus toward using and highlighting the discoveries invented in each respective discipline. The result is fractionation, the opposite of what is so desperately needed: continuous improvement in everyday understanding of what different disciplines have to contribute to each other's conceptions and to practical skills in negotiation. We believe that challenging ourselves to rethink our field and our supposed "truths" at recurrent intervals is the only way to reverse that fractionation, or even to keep it from becoming much worse.

So if you are a negotiation professor or a scholar in any of a variety of professional disciplines, you will find here chapters that summarize ideas and research from a multitude of perspectives. This book stands as an assertion that in the future, *all* relevant disciplines must be included in negotiation textbooks and courses offered—regardless of the discipline you actually teach.

The fact that so many different perspectives are included is, of course, what leads to the length of this book. As you can read in more detail in the Appendix, when we started thinking about a negotiation canon—i.e. the things that should be considered for inclusion in every course regardless of discipline—the *current* "taught everywhere" list was remarkably small: it appeared that only six topics were taught consistently in negotiation classes across disciplines. Our first effort at expanding this list was published in the MARQUETTE LAW REVIEW in Spring 2004. It included an additional 25 topics. Two years later, we have arrived at 80.

The Structure of This Book

Perhaps the easiest way to think about the collection of materials here is in three different areas. First are the topics that a knowledgeable reader might *expect* to find in an up-to-date book on negotiation, and the authors one might expect to find writing them. Yet those expectations are, of course, formed by your particular field and experience, because of the current fractionation of the field discussed above. Thus no matter what discipline you work in, a quick review of the *Contributors* section at the back of the book will probably reveal not only some names you know well, but some others who seem equally famous, and are nevertheless new to you.

Lawyers, for an obvious example, would probably expect chapters on building skills, managing fairness and power, understanding the other side, cultural differences and the like. Less familiar to lawyers, perhaps, are topics like aspirations, decision-making, creativity, and apology. These have been of great interest to negotiation scholars for some time, but are still relatively new to the textbooks. One step further from lawyers' standard expectations are some topics from non-law disciplines that are starting to be introduced to new audiences. For example, certain concepts from psychology, particularly barriers such as loss aversion, the endowment effect, and anchoring, have started to migrate rather consistently into law school classes in negotiation, though not yet into practice manuals for those long past law school. In this book, we have tried to take the same logic further, including chapters from related disciplines in social psychology and positive psychology, disciplines with other kinds of links, such as international relations and economics, and disciplines previously regarded as totally unrelated to law, such as the arts and neurobiology.

There are also topics in this book that are relatively specialized, and yet crucial if you find yourself in the particular situation each one addresses. For example, Sanda Kaufman's chapter on the use of interpreters in negotiation is a completely new concept for many of us (including these editors); but the day you find yourself in an international negotiation, we predict you are going to need that chapter. Similarly, few of us, other than hostage negotiators, have thought in any disciplined way about the challenges of negotiating with disordered or mentally ill people, and how their illnesses might affect the negotiation. Yet the percentage of the population that has a diagnosable mental illness at one time or another is strikingly large. So it is likely that every professional will face this often bewildering situation more than once during a career, and we concluded the subject was essential to include in a reference work.

Finally, we found experienced practitioners who could directly relate theory to practice. The most perceptive practitioners are often good at demonstrating how openness to multiple sources of influence and learning has enriched their practice and sharpened their practical skills. So, interspersed with more theoretical pieces, we have included chapters that show how some of the best negotiators and mediators working today have integrated their hard-won knowledge into practical multidisciplinary skills.

Because of this multiplicity of approaches, we recognize that no two readers are likely to see these offerings in quite the same way. Some will find one chapter too academic, some will find another too practical. Certain chapters may seem difficult, or strange. We hope you will try them out anyway—they may be the ones that years from now you most remember, as having provided you with a whole new way of looking at an issue.

With our multiple purposes in mind, we have opted for something of a "scaled" approach to the order of chapters, starting with concepts that affect large numbers of participants in settings that transcend single negotiation "cases," and working toward more individual concerns.[2] Thus, following the three context-setting chapters in the introductory section is a series of chapters built around how people tend to frame negotiation. This discussion proceeds to when a negotiation is really what's needed, along with underlying concepts of morality and fairness. The subject then shifts successively to the people on all sides; strategies and tactics for a particular case; enlisting help of various kinds; and finally, what it takes to become *really* good at negotiation.

Several people[3] suggested that a single, conventional table of contents cannot do justice to the variety of potential reader interests here. We agree. Accordingly, we have put one alternate table of contents on the Web,[4] and will consider making others available to serve the interests of different "idea markets." We invite suggestions.

We should also note that many chapters relate to other chapters in the book that are not contiguous. We have tried to highlight this in two ways. The editors' note at the beginning of each chapter points to related chapters. And rather than putting references to other chapters in endnotes, we have kept such "internal" references within the text, signified by square brackets with the author and abbreviated title of the referenced chapter. For example, an internal reference to this Introduction would show as [Honeyman & Schneider, *Introduction*]. We hope this helps you find your own best order of chapters.

This Book and Existing Texts

As we've indicated above, we hope teachers of negotiation and students will see this volume as a potential textbook for a course that is badly needed, but as yet barely exists anywhere—a truly cross-disciplinary advanced course in negotiation.

At one level, courses in negotiation have already become a staple of higher education in many kinds of schools. In parallel, a number of negotiation texts have been developed. Those works, however, tend to fall into one of three patterns. In the existing market, a book on negotiation is typically intended either as (1) a mass-market primer; (2) a text for a basic course; or (3) a specialized work intended to develop further skills and/or understanding, but within a single discipline. The result is that no previous work has attempted to articulate the basis for an advanced course in negotiation in its entirety, i.e. one that truly draws from the many fields which have contributed to our collective understanding of negotiation. We should offer students a corresponding caution, though. *If you have never taken a course in negotiation or looked at one of the basic texts in the field, this book may not be for you; at least, not as your first reading.* We have, in fact, made every effort to avoid including material which is effectively shared across fields in textbooks already in use.

What's Next?

As we have not tried to write a formal conclusion to the book, this seems a good moment to articulate a few goals that have been implicit in this and in predecessor projects. (For the context, please see the book's Appendix.) We know, of course, that no two people could possibly come up with a full-scale plan for achieving these goals. The most we can do is to commit to working toward them; but articulating them clearly for your consideration is an element of that commitment.

Where do we go from here? To begin with, we believe the "A" in "ADR" must be put to rest as a core concept of the field. Dispute resolution as we know it and teach it is not at all *alternative*, it is increasingly the norm. For example, relatively few people outside law schools or law practice know that the likelihood, when someone "makes a Federal case" out of something, that it will actually go to trial is now all of 1.8%. (That is not a misprint, and the recent numbers for state courts show a similar trend.[5]) Many more people have a general sense that what was once "alternative" is now increasingly "accepted." Some programs have already updated their "A" to "appropriate;" true integration of the field into daily life will be achieved when the "A" is eliminated completely.

Within law schools, business and planning schools and other professional programs, we need to see to it that equal or greater resources are devoted to training in dispute resolution as to other skills. Until our students are actually trained in the skills necessary to implement the ideas in this book and elsewhere—perhaps via new material under the existing headings of interviewing, counseling, negotiating, decision-making, team management and more—this will remain theory, not fully available in actual practice to clients, business colleagues, and citizens.

Universities must promote interdisciplinary connections in a meaningful way. It's time to demand that universities move toward incorporation of interdisciplinary work requirements in hiring, tenure and promotion processes, perhaps using questions such as "Whom have you been working with outside this field? What have you produced together? What additional fields do you think you need to work with next?" Of course, the cross-disciplinary workshops, networks, and publications also need to be encouraged and rewarded. A sign that "we're getting

there" will be when we see dispute resolution skills taught in ways that show that teachers understand the value of disciplines that are not their own, and integrate their learnings into curricula for all levels of education. In parallel, schools will move beyond peer mediation programs, recognizing the life skills that can be taught. In turn, critically important institutions such as the military and police will come to recognize these as core competencies, so that they as well as other kinds of employers will increasingly hire and promote based on them.

We will know we've had success in negotiation skill-building when enough of us are good enough at resolving conflicts, once they arise, that we find ourselves able to focus more energy on preventive diplomacy in all areas, developing theories of what kinds of interventions and actions prevent or mitigate disputes in the first place along with practical skills to match. We will also focus more on implementation after agreements are reached, so that "resolution" is recognized as involving the ongoing management of conflict.

Finally, the conclusive sign of success of the dispute resolution field will be a visible sea change in how our culture characterizes disputes. Rather than the "argument culture" of Deborah Tannen,[6] we look forward to popular authors writing about our "culture of negotiation." Lawyers and other agents will someday be portrayed in film and on television as possessing problem-solving skills, serving their clients with an accurate perception of the client's real needs, more than with zealous pit-bull advocacy. So we need to find ways to help popular culture absorb and reflect the "new advocacy" as described in this book by Julie Macfarlane.

"No news is good news" works in reverse too, so it's not clear that good news about successful resolution of disputes will ever become celebrated. But an equivalent might be to see metaphors of creativity and cross-cultural understanding supplanting the tired metaphors of the past drawn mostly from war and sports.

Conclusion: a Limitation and a Warning

Two forms of modesty are essential in a book that attempts to cover such broad conceptual territory. The first is cultural. The co-editors of this book are all too aware that we are both Westerners. Although we are fortunate to have a few contributors whose starting points are far from typical Western perspectives, we acknowledge that the overall approach we take and the subjects we consider relevant are controlled by forces we only imperfectly understand. Simply put, we don't know what we don't know.

Second, like the reader, the co-editors of this book are grounded in specific experience; we must admit that each of us operates from a knowledge base that is, at best, partial. Assembling this volume has been an enlightening but also a humbling experience. The sources of wisdom in our "composite field" are so diverse and fast-moving that an effort like this can succeed only if it thoroughly enlists criticism and amendment. The Appendix describes our efforts in that direction so far. But our field's capacity to surprise and to innovate will certainly continue. We look forward to the discoveries yet to be made as well as to the enlightenment that will come from critiques of this work.

In the meantime, we hope you will find the writings in this volume to be wise, and that, whatever immediate concern impelled you to pick this book up, the book will help you in your upcoming negotiation tomorrow.

Endnotes

[1] For example, the U.S. Air Force has won awards for its dispute resolution program, initially in the area of military contracting, where its previous methods had resulted in significant public black eyes. A major reason for the change in methods was the realization that there were so few potential bidders for increasingly high-tech contracts that the Air Force had *no choice* but to teach the companies that compete with each other for its prime contracts to cooperate with each other as well. When the prime contract is awarded, it is now routine for the winning bidder to find it must immediately subcontract large parts of the job to its competitor, just to get the job done on time and to the exacting specification. *See* "The Air Force's Alternative Dispute Resolution Program Was Honored As The Best In The Federal Government At A White House Ceremony" (Air Force Acquisition Newsletter, April-May 2002, *available at* https://www.safaq.hq.af.mil/news/aprilmay02/adr_award.cfm (last visited Feb. 26, 2006). Subsequently, the Air Force has expanded its understanding of uses of negotiation into "deployed settings"—*e.g.* Iraq. C.J. Dunlap, Jr. and P.B. McCarron, *Negotiation in the Trenches*, DISPUTE RESOLUTION MAGAZINE, Fall 2003, at 4-7.

[2] We would like to acknowledge our debt to another field—architecture—which has encountered a similar problem. In particular, a remarkable book compiled by six architects, *A Pattern Language*, showed us the value of the "scaled" approach to ordering disparate information, thus proving useful beyond its original domain—itself a telling exemplar of the principles behind this book. This book was an extraordinary effort to compile aspects of town planning, design of individual buildings, and details of those buildings which have survived through hundreds of years, remaining responsive to human needs across radical changes in society. CHRISTOPHER ALEXANDER, ET AL., A PATTERN LANGUAGE (1968).

[3] We are indebted, in particular, to audience members at our presentations to the Wisconsin Association of Mediators, Madison, Wisconsin and the Program on Negotiation/ESSEC conference on negotiation teaching, Cergy, France, for their suggestions.

[4] A permanent Web page address (URL) has not been established at the time of printing. A search on *negotiator's fieldbook alternate contents* or similar terms, using any standard Internet search engine, should locate it.

[5] *See*, for instance, Marc Galanter, *A World Without Trials?* JOURNAL OF DISPUTE RESOLUTION (forthcoming 2006) and also the various commenting articles in that issue.

[6] Deborah Tannen, THE ARGUMENT CULTURE: MOVING FROM DEBATE TO DIALOGUE (1999).