

# The Negotiator's Fieldbook

*Andrea Kupfer Schneider*  
*Christopher Honeyman*  
Editors

## ANNOTATED TABLE OF CONTENTS

<b>Acknowledgements</b>	xxi
<b>I. Why Even the Best Get Stuck</b>	xxii
1 Introduction: A "Canon of Negotiation" Begins to Emerge <i>Christopher Honeyman &amp; Andrea Kupfer Schneider</i>	1
2 The Unstated Models in Our Minds <i>Jayne Seminare Docherty</i> You're an experienced negotiator. But when was the last time you examined your own pattern of thinking? And is your pattern the same as your counterpart's? This chapter helps you work out what's going on under the surface, and leads onward to chapters about framing, internal conflict of the negotiator, and the characteristic problems of teams. It also suggests which chapters in this book best address <i>your</i> real-world negotiation problems, and how to get the most out of negotiation research.	7
3 Protean Negotiation <i>Peter S. Adler</i> What does it take to be <i>really</i> proficient as a negotiator? Adler argues that negotiators routinely allow themselves to be trapped by their own mental frameworks, unnecessarily restricting their own conceptions of what is desirable, or even possible. He suggests that you cannot do your best work as a negotiator till you absorb <i>all</i> of the often-competing theories that follow in this book, and develop a working competence at selecting which theory applies when.	17
<b>II. The Big Picture</b>	28
<b>A. How People Frame the Negotiation</b>	
4 The Road to Hell is Paved with Metaphors <i>Howard Gadlin, Andrea Kupfer Schneider &amp; Christopher Honeyman</i> Metaphors are so deeply embedded in our minds that they are, to a large extent, <i>how</i> we think. This creates an enormous trap for negotiators, as they not only tend to start out with metaphors for conflict handling that derive from war, but tend not to notice their assumptions. Yet metaphor can be the key to a solution, as well as the central problem.	29
5 What's in a Frame? <i>Marcia Caton Campbell &amp; Jayne Seminare Docherty</i> How you conceive what your negotiation is all about, and how the other side perceives it, can be a complete mismatch resulting in mutual frustration. Here, Caton Campbell and Docherty address the all-important question of framing, providing a set of ways to think through your assumptions and those of the other side. You may want to read this chapter in close conjunction with those by Heen & Stone and Ricigliano.	37
6 When the Play's in the Wrong Theater <i>Gale Miller &amp; Robert Dingwall</i> Before metaphor, underneath framing, lies the structure in which you find yourself negotiating. Because the structural elements are often buried, they can go unremarked. But many times, there is a <i>choice</i> of structure, or dispute domain, within which you may be able to place your negotiation. The authors use one particular type of negotiation to explain how this works and how you might foresee a need to switch to another process.	47

- 7 **A Three-Dimensional Analysis of Negotiation** 55  
*Robert Ricigliano*  
 Docherty's introductory chapter on Models shows why people faced with intractable conflict can often feel completely at sea. Here, Ricigliano uses experience of years of field work, on conflicts from Georgia to Baghdad to Congo, to frame a three-part structure— transaction, context and time—for understanding intractable conflict.
- 8 **Protracted Conflicts As Dynamical Systems** 61  
*Peter T. Coleman, Lan Bui-Wrzosinska, Robin R. Vallacher & Andrzej Nowak*  
 Are you involved in a conflict which, no matter what anyone does, always seems to go on and on and get worse? This chapter can explain why. Moreover, if you are determined to do something about the situation, it will give you clues as to where to put your effort. Fair warning: if you're not a trained social psychologist, this is not easy material. But if you find the practicalities daunting, you might find encouragement by reading this side by side with Ambassador John McDonald's chapter on the Kashmir conflict.
- 9 **Rawls on Negotiating Justice** 75  
*Cheyney Ryan*  
 What does the philosophical concept of justice have to do with ordinary negotiations? Does John Rawls deserve a place at the table? Ryan explains what we negotiators can learn from political philosophy's debates on fairness—and what political philosophers should take from us. This chapter should be read in conjunction with Welsh on Fairness and both of the chapters on ethics.
- 10 **The Poverty of Buyer and Seller** 81  
*Kevin Avruch*  
 In a world in which negotiating can implicate your most important values, Avruch points out that the most common mental model of negotiators is that of buyer and seller. Yet both our most intimate and our greatest negotiations have little to do with the whole basis of buyer-and-seller ideas. Avruch offers a way at least to begin to rethink, to find our way out of this trap.
- 11 **Game Theory Behaves** 87  
*David F. Sally & Gregory Todd Jones*  
 Almost everybody who has taken a basic course in negotiation in the last 20 years has encountered basic game theory, at least to the extent of the widely used "prisoner's dilemma" games. But game theoreticians have been hard at work, and have come up with some disturbing findings that go way beyond the simple strategic calculations in the prisoner's dilemma game and its equivalents. Sally and Jones analyze what has been discovered, and what it means for negotiators who need to think at least one step ahead of their counterpart and one step beyond their own biases. And if you're a *real* negotiator, you're tough enough not to be scared off by a mere equation or two.
- 12 **Process and Stages** 95  
*I. William Zartman*  
 Every negotiation has a rhythm to it—whether lyrical, musical or mechanical. The rhythm regulates a progression which, once understood, can help you realize where you stand at any given moment. Here, Zartman outlines the process and the typical steps that negotiations must work through.
- B. When Is It Really A Negotiation?** 99
- 13 **When *Not* to Negotiate** 101  
*Gabriella Blum & Robert H. Mnookin*  
 "I shouldn't enter into negotiations at all" is an instinctive reaction of many disputants. Mnookin and Blum provide a useful theoretical framework to demonstrate what a party should consider before making this decision. While they suggest that sometimes it can be entirely rational to refuse to negotiate, their framework shows how disputants may often make distorted assessments, exaggerating the costs and underestimating the benefits of entering into negotiations. Their theoretical contribution is nicely complemented by Lisa Bingham's highly pragmatic treatment of related issues in the chapter that follows.

- 14 Avoiding Negotiating: Strategy and Practice 113  
*Lisa Blomgren Bingham*  
 Should you even negotiate over this issue? With *this* party? *Now*? Bingham presents a pragmatic overview of when negotiation might logically be avoided, and when, particularly in multiparty or dispute systems design, you might need to think strategically about unintended “chilling.” This essay is closely linked to Blum’s & Mnookin’s on the principles of “not negotiating,” and to Morash’s, whose discussion of “nonevents” is one form of the systemic chilling that Bingham discusses here.
- 15 Nonevents and Avoiding Reality 121  
*Susan K. Morash*  
 What do you do when you think something should be discussed, but others don’t seem to recognize there’s an issue? This essay uses specific examples from health care to make a larger point. Health care professionals often choose not to view supposedly-minor errors and “incidents” as triggering a need for a discussion with a patient. By taking this view, of course, they set themselves up for a confrontation later, when and if the patient finds out anyway. Do similar assumptions limit discussion with your kinds of clients? What are the consequences?
- 16 Negotiating Access 133  
*Alexander Hawkins, Chris Stern Hyman & Christopher Honeyman*  
 “How can I shake them out of their complacency?” Hawkins, Hyman & Honeyman use three different examples to discuss the first step of a negotiation—getting the other side even to recognize that you might have something worthwhile to add. Linked to the chapters on avoiding negotiation and “nonevents,” this chapter addresses the problems and tactics of getting your counterpart to recognize that there is a negotiation table, and that they will be better off if they meet you around it.
- 17 Timing and Ripeness 143  
*I. William Zartman*  
 How do you know when it’s time to get serious about negotiating? When is a deal ready to be made? In the settlement of civil disputes, we often see parties expensively delaying negotiations, even waiting for mediation till they’re on the proverbial courthouse steps. Is there a science to this? From the perspective of international relations, Zartman analyzes the issue of ripeness and demonstrates when it’s time to settle.
- C. Is it Moral, is it Fair, is it Right? 153
- 18 The Ethics of Compromise 155  
*Carrie Menkel-Meadow*  
 Does how we negotiate reflect or shape our character, or both? Does choosing to negotiate have moral implications? What are the ethical and moral implications of making the assumption that negotiation is inappropriate? Here, Menkel-Meadow notes that not all negotiation is based in the idea of compromise, and discusses the ethical and moral underpinnings of our choices in negotiation—choices we can ignore we are making, but cannot avoid making.
- 19 Perceptions of Fairness 165  
*Nancy A. Welsh*  
 In all of negotiation there is no bigger trap than “fairness.” Welsh explains why: among multiple models of fairness, people tend to believe that the one that applies *here* is the one that happens to favor *them*. This often creates a bitter element in negotiation, as each party proceeds from the unexamined assumption that its standpoint is the truly fair one. Welsh argues that for a negotiation to end well, it is imperative for both parties to assess the fairness of their own proposals from multiple points of view, not just their instinctive one—and to consider the fairness of their procedures as well as of their substantive proposals (in which respect this chapter should be read in conjunction with Putnam on Communication).

20	Ethics and Morality in Negotiation	175
	<i>Kevin Gibson</i>	
	Your dilemmas as a negotiator fall into two basic sets, “what’s possible?” and “what’s right?” The first is treated by many chapters in this book. Here, from his philosopher’s background, Gibson writes about the influence of morality on negotiations, and how we can think more clearly about what’s the right thing to do. This chapter should be read in conjunction with Menkel-Meadow and with Ryan on Rawls; for the rebound effects, you might turn next to Tinsley et al., Reputations.	
21	The Law of Bargaining	183
	<i>Russell Korobkin, Michael L. Moffitt &amp; Nancy A. Welsh</i>	
	How far can you go in extolling the virtues of your widgets without crossing the line to fraud? Other chapters (on trust, reputation, ethics) consider the morality and the implications of negotiation behavior. This chapter focuses on the legal limits of negotiation: sometimes, you or your counterparts have employees with children to feed, and somebody <i>will</i> go to the limit of what is legally permissible. Every negotiator needs to know where that limit actually is and how it’s influenced by the context.	
22	Trust and Distrust	191
	<i>Roy J. Lewicki</i>	
	Can you both trust and distrust the other side? In fact, we often do exactly that. Lewicki provides practical advice on dealing with trust and distrust in each interaction. Of particular importance to negotiators facing troubled relationships, this chapter shows how distrust is not merely a mirror image of trust: it actually works quite differently. Effective negotiators must learn both to build trust <i>and</i> to manage distrust. This chapter should be read in conjunction with Tinsley et al., Reputations.	
23	Reputations in Negotiation	203
	<i>Catherine H. Tinsley, Jack J. Cambria &amp; Andrea Kupfer Schneider</i>	
	Time was when a Formica plaque could often be found on the desk of a certain type of negotiator. It said “Yea, when I walk through the Valley of the Shadow of Death I shall fear no evil, for I am the meanest son of a bitch in the valley.” Is it really to your advantage to have a reputation as one of the junkyard dogs of negotiation? The authors approach the question from three very different starting points. Tinsley summarizes the research on reputation in controlled settings. Schneider turns to real-life reputations of lawyers in action. Finally, Cambria shows how the life-and-death negotiations which characterize the work of the New York Police Department’s Hostage Negotiation Team have led to a new understanding of reputation. This chapter should be read in conjunction with Lewicki on Trust.	
24	Giving Future Generations a Voice	215
	<i>Kimberly A. Wade-Benzoni</i>	
	Most discussions of negotiation tacitly assume that self-interest is the predominant, or even the only, basis for what is going on. Discussing the fascinating research on altruism in negotiation, Wade-Benzoni explains that many negotiations actually include an element of “negotiating with the future”—and that in these settings, negotiators may act in unexpected and pro-social ways. This chapter should be read in conjunction with Welsh on Fairness.	
<b>III. The People on All Sides</b>		224
<b>A. Who Are You?</b>		
25	Identity: More than Meets the “I”	225
	<i>Daniel L. Shapiro</i>	
	How can you expect to get good results in a negotiation if you give little thought to who you really are, and to who your counterpart is? Shapiro analyzes the research on identity, showing how you can predict the likely reactions of your counterpart to some kinds of proposals—as well as your own propensity to avoid some kinds of proposals that might be to your advantage. This chapter should be read in close conjunction with the chapters on internal conflict, psychology and perceptions.	

- 26 Internal and External Conflict 231  
*Morton Deutsch*  
 Have you ever been in a negotiation where you (or the other side) seem to be acting instinctively, but perhaps not helpfully? Have you wondered what was going on inside your counterpart? Deutsch summarizes how psychological theory applies to basic negotiation, and explains how negotiators' internal conflicts affect them and everybody else in the room.
- 27 Knowing Yourself: Mindfulness 239  
*Leonard L. Riskin*  
 How are you supposed to negotiate effectively if you can't concentrate on the signals your counterpart is giving? How can you look your client in the eye and say you've done your best if you allow that routine mindlessness—to which we're all subject—to occur without even a conscious attempt to fight it? Riskin summarizes years of research on techniques for improving concentration.
- 28 On Bargaining Power 251  
*Russell Korobkin*  
 Strip away concepts of power based in your opponent's relative wealth compared to yours, or based on other popular myths, says Korobkin here. What are you going to do if there is no agreement? What is the other party likely to do? Answer those questions, and you will know who really has how much power in *this* situation. (For counterpoint, read Bernard's Powerlessness.)
- 29 Power, Powerlessness and Process 257  
*Phyllis E. Bernard*  
 Do you ever feel yourself powerless in negotiation? Are you, perhaps, involved right now in a negotiation in which *others* feel powerless, and in which their reactions are causing the negotiation to go into a tailspin? Here, Bernard deconstructs the concept of powerlessness, and helps you understand what you can still do in either situation. This chapter should be read in conjunction with Korobkin on Power and Kolb on Moves and Turns.
- 30 Untapped Power: Emotions in Negotiation 263  
*Daniel L. Shapiro*  
 To many negotiators and mediators an "emotional issue" sounds like one with no real substance to it, yet one that's liable to damage the situation at any moment. Shapiro shows how unsophisticated that view is. Emotions, recognized and unrecognized, regularly trap professional negotiators as well as clients, when these emotions could have been anticipated and dealt with constructively. Not only that, but there are positive uses of emotion in negotiation.
- 31 Aspirations 271  
*Andrea Kupfer Schneider*  
 When you set out to negotiate with someone, how do you evaluate what you're really trying to achieve? Is it an unfocused want, something better than your BATNA, anything you can get that's above your reservation price? Schneider analyzes research showing that a *conscious* choice of goal helps you come out with more. Four keys to this are "making your reach a little longer than your arm;" setting goals you can justify in public without laughing or lying; making them specific; and paying real attention to goals which can't be expressed in a number.
- 32 Miswanting 277  
*Chris Guthrie & David F. Sally*  
 If you're assuming that a settlement will make you (or your client) happy, it's time to question that assumption. By explaining the work of positive psychology (or what makes people happy) these authors explain how people often end up misdiagnosing their own goals. But if you understand your own and your client's pressures toward misidentifying what you need out of a negotiation, you are better prepared to set goals that will actually work for you both. This should be read in conjunction with Schneider on Aspirations.

- 33 **In Our Bones (or Brains): Behavioral Biology** 283  
*Douglas H. Yarn & Gregory Todd Jones*  
 Research on our innate responses to conflict, and to different situations that arise in negotiation, has been burgeoning. It's not just a matter of fight-or-flight; it turns out we are programmed in a number of overlapping and sometimes competing ways. And, as Yarn and Jones summarize, the research now suggests that we may be primed to collaborate more than to compete.
- B. Who Are They?** 292
- 34 **Typical Errors of Westerners** 293  
*Bee Chen Goh*  
 It's no longer rare for negotiators based in a Western culture and instinctively applying Western concepts to find themselves in dealings with people who start from a very different cultural frame of reference. Goh, a Chinese-Malaysian law professor working in Australia, deconstructs the typical errors that negotiators unfamiliar with Chinese culture can be expected to make. This chapter should be read in conjunction with Kelly's chapter on negotiating with indigenous people; together, they can provide you with a fast tour that will provide some hints as to what you might encounter in still other cultures.
- 35 **Indigenous Experiences in Negotiation** 301  
*Loretta Kelly*  
 In a contribution likely to shake many readers' implicit assumptions, an Australian Aboriginal mediator uses a detailed examination of one key type of case to examine how negotiators who make the common Western assumptions can trip over their own feet as soon as they find themselves negotiating with people who operate from totally different cultural assumptions. The lessons from this chapter are relevant even for ordinary negotiators with no plans to go to the outback.
- 36 **Gender Is More than Who We Are** 315  
*Deborah M. Kolb & Linda L. Putnam*  
 While many negotiation analysts have observed behavior differences resulting from gender, this chapter takes the issues much further. The authors analyze patterns of thinking and behavior which are central to how we all handle conflict but which often remain obscure to members of the opposite gender, even after a lifetime of close contact.
- 37 **Religion and Conflict** 323  
*Jeffrey R. Seul*  
 Conflict has long been a preoccupation of each of the world's major religions. Each has its own tradition and its own culture of handling conflict. In many cases, mutual misunderstandings as to what that culture is, or distortions by parties who claim to operate within the traditions of a given religion, have caused more conflict. How should you react when you know that someone you will be negotiating with derives much of their identity from a religious frame? Seul summarizes what is known about each of the major religions and its conflict-handling tradition.
- 38 **Negotiating with Disordered People** 335  
*Elizabeth L. Jeglic & Alexander A. Jeglic*  
 It's all but routine for a negotiator leaving a meeting to mutter under her breath concerning the perceived mental health issues of someone on the other side. Unfortunately the research now demonstrates that such suspicions may not always be unreasonable. Mental health issues, it turns out, do not prevent people from assuming and holding high status in many kinds of organizations, so you may be negotiating with borderline mentally ill people with some regularity. Furthermore, we know that high-stress situations like death of a family member, divorce or job changes, which often lead to negotiations, can trigger mental illness. Here, a psychologist and a lawyer analyze the most common types of mental illness and tell you what to expect from each of the types you are most likely to encounter in negotiations.

<b>IV. What to Do?</b>	<b>342</b>
<b>A. When You're Trying to Figure Them Out</b>	
39 Perceptions and Stories	343
<i>Sheila Heen &amp; Douglas Stone</i>	
Even when the parties basically recognize the same set of facts, there are often multiple versions of what actually happened. Why is this, and how do these different versions affect negotiations? This chapter demonstrates how each side's version of "the story" in a negotiation needs to be understood, if the other side is to be persuaded to make any significant step toward an agreement.	
40 Heuristics and Biases at the Bargaining Table	351
<i>Russell Korobkin &amp; Chris Guthrie</i>	
So you still think that negotiation should be based on "rational" thought? This chapter describes several key aspects of psychology and economics which impact our behavior—whether we like it or not and whether we know it or not. The authors summarize extensive work on how cognitive biases and other "non-rational" decision-making can be recognized, and then used to help reach the agreement you want.	
41 Psychology and Persuasion	361
<i>Donna Shestowsky</i>	
We know instinctively that not everyone is persuaded by the same set of facts or the same type of argument. Shestowsky explains the two different types of audiences we typically face in a negotiation, and provides pointers on how to persuade in the way that will be most effective to each audience. This chapter should be read in conjunction with those by Heen & Stone, Guthrie, and Korobkin & Guthrie.	
42 Courting Compliance	371
<i>Chris Guthrie</i>	
Why is it that attractive or well-liked people tend to do better in negotiation? Guthrie explains the psychology behind six different factors that tend to influence people: liking, authority, reciprocity, scarcity, commitment, and social proof. He offers practical tips, too, exploring how lawyers and other negotiators can use these phenomena to influence their counterparts in negotiation.	
43 The Theory of Mind	377
<i>David F. Sally</i>	
False beliefs, bluffs and faux pas are the stuff of everyday life in negotiation. The ability to interpret your counterpart's moves as anything other than literal, however, is not innate: it must be learned. And, says Sally, we don't yet quite know how to teach it.	
<b>B. When You're at the Table</b>	<b>383</b>
44 Communication and Interaction Patterns	385
<i>Linda L. Putnam</i>	
Certainly you know how to communicate; you're a negotiator, after all. But suppose the stakes are high. What if you're trying to decide whether or how to threaten to walk away? How can you communicate to your best possible advantage at some other particularly sensitive moment? Putnam examines three different areas of communications research—negotiation strategies, language analysis and process patterns—to explain that <i>how</i> we say things is often as important as <i>what</i> we say. This chapter should be read in conjunction with Welsh's on Fairness.	
45 Risks of E-Mail	395
<i>Anita D. Bhappu &amp; Zoe I. Barsness</i>	
It's increasingly likely that you will find yourself conducting negotiations by email, if only as one aspect of the process. The authors discuss how email changes both <i>what</i> is discussed and <i>how</i> it's discussed, and they have some salutary warnings	

- for you. Using e-mail, it turns out, can distort what you're trying to say, and may also affect your perception of what *they* are trying to say.
- 46 Strategic Moves and Turns 401  
*Deborah M. Kolb*  
 In her well-known book *The Shadow Negotiation*, Kolb focused on the ways in which women are often disadvantaged by the events and patterns that take place out of sight of the negotiating table. Here she has broadened the focus to include others, of any gender and culture, who find themselves “one down” in even trying to begin a serious discussion. If you have found yourself in this situation (and who hasn't?) Kolb has practical advice for you.
- 47 Creativity and Problem-Solving 407  
*Jennifer Gerarda Brown*  
 It's routine for people to recognize that negotiations demand creativity. It also seems routine for negotiations to result in rather uncreative solutions, in which many opportunities for a better deal all around were missed. In this chapter, Brown suggests some ways to break out of the predictable—and to get your counterpart to do so too. This chapter should be read in conjunction with the very different forms of creativity discussed in LeBaron & Honeyman on Arts.
- 48 Using the Creative Arts 415  
*Michelle LeBaron & Christopher Honeyman*  
 Why should we assume that minds and hearts are changed only at the bargaining table? Among the other settings that influence hearts and minds, the arts deserve a special place. Arts can make human understanding a little easier to achieve, and from a utilitarian perspective, the arts represent a whole series of alternative ways of getting at problems. This chapter uses the experience of a single, unusually arts-oriented city as a framework to examine what is possible.
- 49 Apology in Negotiation 425  
*Jennifer Gerarda Brown & Jennifer K. Robbennolt*  
 Is “I'm sorry” the hardest phrase to say? Does it matter whether you mean it? This essay examines the critically important issue of apology, and how and when an apology can be helpful or harmful in a negotiation. Reviewing the latest empirical work, the authors discuss the purpose, type and timing of an apology, to ensure that any apology given accomplishes its goals. Note that they find that an apology offered cynically or casually may be worse than none at all. This chapter is linked to Waldman & Luskin.
- 50 Unforgiven: Anger and Forgiveness 435  
*Ellen Waldman & Frederic Luskin*  
 How many negotiations are reduced to a numbers game by the unthinking responses of professional negotiators who don't recognize what is really at stake for their clients? How many negotiators frame what “should” be achieved in the negotiation, conveniently getting around the fact that the agent can't be paid one-third of an apology? Here, a lawyer and a psychologist together examine the evidence that forgiveness may be the single most desirable negotiation outcome in many situations, when measured by physical and mental health of those involved—but that a lockstep push toward forgiveness in *all* disputes is neither possible, nor desirable. This chapter should be read in conjunction with Brown & Robbennolt on Apology.
- C. When a Deal's in Sight 444
- 51 Analyzing Risk 445  
*Jeffrey M. Senger*  
 Should I accept this offer? How can I measure the real value of a settlement offer now, versus the possibility of a much larger verdict years in the future? Here, a highly experienced U.S. Government attorney who has tried many complex cases explains how risk analysis helps us estimate outcomes with more accuracy, and make better decisions.



52	Contingent Agreements	455
	<i>Michael L. Moffitt</i>	
	What if you and the other side have very different views of the future? Should this make it harder to achieve an agreement? In fact, as Moffitt explains, these different views can provide exactly the lubricant needed for the gears to mesh. Contingent agreements can help negotiators move toward an overall agreement, even (or particularly) when they disagree. As one of several chapters discussing particular techniques for use when things get sticky, it should be read in conjunction with Wade's chapter on the Last Gap and Honeyman's on Using Ambiguity.	
53	Using Ambiguity	461
	<i>Christopher Honeyman</i>	
	The reality sinks in: everybody's now trying to reach an agreement, but on some fundamental things, the parties <i>really</i> don't agree. Some of those involved see themselves as reasonable people, others are Standing On Principle without any thought of what that will mean in practice. Is there anything you can do to get this dispute over with before it spirals completely out of control? Yes, says Honeyman: you can allow, or even consciously design in, a bit of ambiguity here and there. Doing this knowledgeably can preserve your principles, while allowing for an agreement that works well enough for an imperfect world.	
54	Crossing the Last Gap	467
	<i>John H. Wade</i>	
	It's three o'clock in the morning. You've been negotiating or mediating since 9 a.m. and everybody is exhausted. Each side has made more concessions than it really thinks it should have had to, and the gap between the parties has narrowed to millimeters. But there it has stuck, and will stay stuck unless you do something new. Every sophisticated negotiator or experienced mediator has a personal answer to this problem, a private stock of a few gambits, often tried and sometimes successful. But John Wade has the longest list we have ever seen, 16 techniques in all. Not one of them works all the time, but together they can materially improve your batting average.	
55	Bargaining in the Shadow of the Tribe	475
	<i>John H. Wade</i>	
	The negotiations have gone on for hours or months or years. A deal is at hand. And now, the other side mentions for the first time that the approval of some previously unrecognized person is required, or there is no deal. Could you have prepared for this? Do you have options at this point? Are you, perhaps, the negotiator making the dread announcement that you must respond to a higher power before a deal's a deal? Here, Wade meticulously deconstructs the circumstances that lead to "shadow of the tribe" negotiations, and suggests what you can do.	
56	A Lasting Agreement	485
	<i>John H. Wade &amp; Christopher Honeyman</i>	
	So, you finally have a deal! How can you make the deal stick? This straightforward chapter provides specific advice on what makes deals fall apart, and what you can do in order to increase the likelihood that <i>your</i> agreement will survive the slings and arrows of outrageous fortune.	
<b>V. A Crowd at the Table</b>		496
<b>A. Enlisting Help</b>		
57	Consequences of Principal and Agent	497
	<i>Jayne Seminare Docherty &amp; Marcia Caton Campbell</i>	
	What's going on away from the negotiating table? How does the relationship between your counterpart and her principals impact you? Docherty and Caton Campbell explain how the structure of the agency relationship, for you and for the other side, can dramatically impact negotiation behaviors and outcomes. This chapter is, of course, related to Nolan-Haley's on Informed Consent, but also relates to	

- chapters on team negotiations, particularly Bellman's on internal discord within a team.
- 58 Agents and Informed Consent 505  
*Jacqueline Nolan-Haley*  
How can you the negotiator ensure that your client is really on board? Nolan-Haley argues that by paying more attention to informed consent not only before, but again at intervals during negotiation, and taking care to reaffirm this as the process reaches agreement, agents will not only better serve their clients but reach better, more lasting agreements. This chapter should be read in conjunction with Wade's Bargaining in the Shadow of the Tribe.
- 59 The New Advocacy 513  
*Julie Macfarlane*  
This chapter shows how historical notions of the meaning of "zealous advocacy" have evolved into a highly adversarial norm. More and more lawyers, especially those skilled in the use of consensus-building processes such as negotiation and mediation, are finding "zealous advocacy" ineffectual. Macfarlane shows how more sophisticated concepts work to protect clients' interests and get deals done.
- 60 Dueling Experts 523  
*John H. Wade*  
Your case is complicated; it involves specialized knowledge, and without some help, the judge probably won't understand it and the jury certainly won't. Furthermore, your chances of negotiating a settlement depend on getting some degree of shared understanding with the other side of what the facts *are*. So you've hired your expert, and the other side has hired its expert—and now the experts themselves are locked in combat. Could you avoid this next time? In the meantime, what do you do now? Wade analyzes your options at every stage, and shows how even when the experts have delivered black-versus-white reports of the facts, you can still salvage the situation.
- 61 The Interpreter As Intervener 535  
*Sanda Kaufman*  
You're about to start negotiating in a language where you can't even read the alphabet. What to do? This chapter is essential for anyone about to engage in an international negotiation involving multiple languages—which could include many "domestic" negotiations in New York or Chicago or London or Paris. Kaufman explores how translators are neither perfectly neutral third parties, nor part of a team (contrary to common assumptions); shows how they are often powerful and autonomous actors in the negotiation; and demonstrates how important it is to think about the use of interpreters *before* the day they are hired.
- 62 Negotiating in Teams 547  
*David F. Sally & Kathleen M. O'Connor*  
This chapter, the first of our teams trilogy, analyzes the research on what individuals accomplish when compared to teams in which the members have differentiated functions. Not surprisingly, the teams turn out to be able to handle more information more accurately more of the time. But of course, that's not the whole story. You will be able to construct a better negotiating team and manage it better if you read this chapter in close conjunction with Bellman's pithy advice on what to do when the team faces disunity, and Matz's analysis of how even an extraordinarily sophisticated team can misread its own members' priorities and possibilities.
- 63 Intra-Team Miscommunication 555  
*David Matz*  
The second in our trilogy on team negotiations, this chapter uses Matz's interviews of key players in a single, epochal but failed negotiation to ask a key question. Is it possible that team members in even high-level teams, working on really important issues, are subject to pressures which cause them to misread the signals from within *their own* team as to what is possible? The fact that experienced and savvy negotiators can miss their own team's internal signals has implications for your

- negotiations too. What can you do, the next time you are working with a team under high pressure and with high stakes, to improve your own communication?
- 64 Internal Conflicts of the Team 561  
*Howard S. Bellman*  
 The third chapter in our trilogy on teams discusses how, as negotiator or mediator, you may find yourself in a complex dispute in which one of the parties appears to have substantial conflicts within its team. Bellman shows why these conflicts, when they are not amenable to the same techniques the mediator would use for inter-party conflicts, may be resolved by developing an internal mediator within the conflicted team.
- B. Bringing In a Third Party 564**
- 65 Negotiation, One Tool Among Many 565  
*Jayne Seminare Docherty*  
 When setting up for a negotiation, let alone actually in one, it's all too easy to focus on the numerous tasks immediately in front of you. Docherty argues that for many negotiations, the key to unlocking the potential is to think more broadly about how to achieve the *overall* objectives. What tools are available to supplement the obvious one of sitting down with your counterparts? Should some of these, perhaps, come first? Should some be used simultaneously with negotiation? And should you plan to use still other "away from the table" tools to sustain your agreement?
- 66 The Uses of Mediation 573  
*Lela P. Love & Joseph B. Stulberg*  
 How's your negotiation going? Is it possible you need a mediator? This chapter, the first of our mediation trilogy, uses three different case studies to show why and when mediation can help negotiators reach an agreement. It explains the different types of mediation goals, and how each of those goals can affect the process. This should be read in conjunction with Honeyman on Understanding Mediators and Abramson on the Culturally Suitable Mediator.
- 67 Understanding Mediators 581  
*Christopher Honeyman*  
 Perhaps you've reached the point in the negotiation where it's time to bring in a third party. This chapter, the second in our mediation trilogy, helps you make wise choices about whom to hire as a mediator. It's designed to help the negotiator understand how mediators actually operate, and to be aware of the skill set and biases within which any given mediator must operate.
- 68 The Culturally Suitable Mediator 591  
*Harold Abramson*  
 Often overlooked in the search for a mediator is the need for one whose competence includes cultural awareness. Any ordinary negotiator is more likely than ever before to find herself in a negotiation with a party from another country, or a different culture within the same country. This chapter discusses the most common culture-based differences in mediation styles, and when each might be appropriate. It should be read in conjunction not only with the other chapters on mediation but also with the chapters by Kelly and Goh on negotiating in other cultures.
- 69 Allies in Negotiation 603  
*Bernard Mayer*  
 In a thought-provoking book, Mayer analyzed new roles that experienced mediators and other neutrals might play. Here, he takes the other side of the coin, and discusses how negotiators could enlist skilled neutrals as allies instead. This could help you to get a complex negotiation framed properly or to approach the other side in ways that will put them in the right frame of mind.

<b>VI. Putting It All Together</b>	<b>614</b>
<b>A. Retraining and Rethinking for a New Complexity</b>	
<b>70 Learning How to Learn to Negotiate</b>	<b>615</b>
<i>Scott R. Peppet &amp; Michael L. Moffitt</i>	
<p>This chapter is for everyone who ever wondered if they could really implement all the new negotiation ideas they have read. By analyzing research on how we can learn to learn, the authors of this chapter provide specific advice to negotiators and negotiation trainers. (For those whose students—or colleagues—are more hardheaded than most, this chapter should be read in conjunction with the chapter by Kirschner.)</p>	
<b>71 Training a Captive Audience</b>	<b>627</b>
<i>Stuart M. Kirschner</i>	
<p>Let's say you've finished this book and would like to use some of it. But what about your more hardheaded colleagues, team members or other audiences? Using his experience in training the highly skeptical police officers of the NYPD, psychologist Stuart Kirschner discusses the design of training for a potentially resistant audience.</p>	
<b>72 Retraining Ourselves for Conflict Transformation</b>	<b>637</b>
<i>Charles Hauss</i>	
<p>As Docherty points out in her introductory chapter on Models, most negotiations take place within an accepted framework of legal and other principles. This chapter describes the real-life experiences of a major NGO working in more politicized kinds of conflict. Hauss forthrightly describes examples from Search for Common Ground, citing failures as well as successes to discuss the larger lessons about conflict handling on a major scale, and in highly politicized environments.</p>	
<b>73 Uses of a Marathon Exercise</b>	<b>645</b>
<i>Daniel Druckman</i>	
<p>Very few real world negotiations last 45 minutes (with some time left to debrief!) Yet most negotiation simulations used in the classroom operate with just such time and fact constraints. The consequences are naturally rather unrealistic. Druckman challenges the presumed inevitability of such arbitrary or truncated exercises, describing extensive experience in conducting multi-day, multi-stage, research-based negotiation exercises for a variety of clients. If we can't adapt our training models to such realistic approaches, can we seriously argue that we are training people to be real, or even realistic negotiators? Druckman's chapter helps trainers and professors think about changing their simulations.</p>	
<b>74 Negotiating with the Unknown</b>	<b>657</b>
<i>Maria Volpe, Jack J. Cambria, Hugh McGowan &amp; Christopher Honeyman</i>	
<p>What happens when all of the classic negotiation advice about preparation goes out the window? Negotiations "on the street" teach us how extensive preparation for the process itself—for teamwork, roles, communication patterns, and trust—is crucial for success when everything you might ordinarily want to know to prepare for a specific case is impossible to find out in time.</p>	
<b>75 Hostage Negotiation Opens Up</b>	<b>667</b>
<i>Paul J. Taylor &amp; William Donohue</i>	
<p>The high-stakes world of the hostage negotiator draws instinctive respect from other negotiators. But if you operate in another domain, you could be excused for thinking that hostage negotiation has nothing to do with you. That impression, it turns out, is quite often wrong. Here, two researchers draw parallels to several kinds of business and other disputes in which it often seems that one of the parties acts similarly to a hostage taker. Understanding what hostage negotiators have learned to do in response can be a real asset to a negotiator faced with one of these situations. Read this with Reputations and with Negotiating with the Unknown, and you may find yourself formulating a new idea you can use tomorrow.</p>	

76	The Military Learns to Negotiate <i>Leonard L. Lira</i>	675
	Since as long as anyone can remember, negotiators have used war metaphors as a way to frame what they were thinking, and as an analogy to what might happen if no deal is reached. But the warriors themselves have wised up. In this chapter, U.S. Army Major Leonard Lira shows how the military is beginning to become sophisticated about its own needs for negotiation.	
	<b>B. Becoming the Consummate Professional</b>	686
77	The Last Plane Out... <i>Robert Dingwall &amp; Carrie Menkel-Meadow</i>	687
	If you've always wanted to know what happens when "negotiation experts" actually have to negotiate, this chapter is for you. But it has more to offer than that. Writing about the common negotiation nightmare of a cancelled flight, two scholars draw on many of the field's cultural and other theories to address the very real question: when there's one seat left on the Last Plane Out and many people vying for it, how do <i>you</i> get that seat?	
78	Professionalism and Misguided Negotiating <i>Wayne Brazil</i>	697
	A settlement judge is in the unique position of observing lots of high-stakes negotiating every day. Here, one of the US federal courts' most highly regarded settlement judges discusses not only his reactions as a professional to the negotiators who come before him, but the kinds of errors they tend to make. Judges are not the only powerful figures who end up mediating our disputes, so if you expect to be negotiating any kind of case before any kind of powerful player, this chapter is important reading.	
79	Ulysses and Business Negotiation <i>Daniel Rose</i>	711
	Does Adler's "protean negotiator" really exist, or is this just an ideal type with no real relevance to the hard cold world of business? And does your reputation as someone who cares about the other side help you or hurt you, when it's time to supply the goods and get your price? Here, a businessman with an impeccable reputation makes a radical case: real businesses, which employ real people, must establish and keep a reputation for honesty in their dealings, or they are unlikely to get to be (or remain) <i>big</i> businesses. The implications are everywhere; just read the newspapers. But people who instinctively believe they should behave well and take the long view in business negotiations have more allies, at the top levels, than they may realize.	
80	A New Future for Kashmir? <i>Ambassador John W. McDonald</i>	715
	Only rarely is the public privileged to track a major negotiation and see up close whether the theories actually get put into practice. A multitude of other chapters in the book are implicated here as Ambassador McDonald talks about the prevailing assumptions, the intractable conflict, and a breakthrough move toward progress in the decades-old conflict between India and Pakistan over Kashmir. This chapter stands particularly as a practical illustration, by a consummate practitioner, of the principles explained in chapters by Coleman et al. and Adler.	
	<b>Appendix</b>	723
	<b>Contributors</b>	729
	<b>Index</b>	743