

CHAPTER ELEVEN

Judgmental Biases in Conflict Resolution and How to Overcome Them

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A common misconception that negotiators and dispute resolution professionals hold is that conflict escalation, stalemates, impasses, and lose-lose agreements are exclusively driven by intransigence and self-interested motivation. Whereas self-interest and competitive motivations interfere with productive conflict resolution, many seemingly benign beliefs and cognitions also thwart effective conflict resolution but often go undetected. Unfortunately, these beliefs are not easily corrected during the process of conflict resolution itself because it is difficult for negotiators to monitor them. Furthermore, third-party intervention is no guarantee that erroneous beliefs and cognitions will be adequately identified and eliminated. In fact, the mere presence of a third party may exaggerate the tendency of these faulty and erroneous beliefs to disturb the otherwise effective resolution of conflict. Indeed, third parties and other self-proclaimed neutrals often fall prey to similar cognitive bias (Gibson, Thompson, and Bazerman, 1994).

We argue in this chapter that detecting and challenging negotiator biases can do much to resolve disputes and conflicts of interest. Unfortunately, most negotiators are not aware of the existence of cognitive biases and their deleterious effects. In the first section, we introduce three types of bias that occur over the time course of negotiation: biases of cognition, biases of process and the dance of negotiation, and biases with regard to allocation and outcomes. In the second section, we consider the implications of bias for negotiation. Finally, we examine methods for eliminating or reducing cognitive bias at the bargaining table, and in so doing, we consider naturally occurring social-contextual factors that affect bias as well as structured intervention.

BIAS: A DEFINITION

The tendency to use shortcuts, or heuristics, when we process information is an extremely cost-effective strategy, and much of the time, heuristic processing provides us with accurate information. It may seem peculiar to argue that heuristics—cognitive shortcuts—are cost-effective, given that they lead to biases and hinder effective conflict resolution; however, our point is that much of the time, these shortcuts may be effective when used in nonconflict situations because they can lead to an answer or solution that is acceptable and efficient (see Bazerman and Moore, 2013). For example, in forming an impression of a new next-door neighbor, one could do an extensive search (interviewing friends and relatives, perhaps even hiring a private investigator), or one could simply rely on a first impression. Whereas the former strategy is costly and time-consuming, the second strategy is simple and, in nonconflict situations, typically adequate. Indeed, people's judgments of others' likability, personality, sexual orientation, performance as teachers, socioeconomic status, psychopathology, and a host of other predictions can be evaluated within seconds (Ambady and Rosenthal, 1992, 1993; Johnson, Gill, Reichman, and Tassinari, 2007; Krause, Piff, and Keltner, 2009; Fowler, Lilienfeld, and Patrick, 2009). Thin slices of behavior reveal that people pay attention to key cues when forming judgments (Carney, Colvin, and Hall, 2007).

In competitive encounters such as negotiation, the heuristic-based judgments we make are often wrong. Furthermore, the nature of our errors is not random but instead systematic. For the purposes of this discussion, we focus on systematic error and patterned fallacy; these are known as *cognitive biases*. Biases come in many forms and shapes. For instance, people can be biased about other people, as when they use stereotypes (someone might perceive all New Yorkers as pushy). People can also be biased about situations (the gambler's fallacy—having lost so many times in a row that he or she is due to win; Tversky and Kahneman, 1974). Paradoxically, people can also be biased about themselves (the vast majority of people judge themselves to be above average on many positive characteristics and abilities, even though it is logically impossible for most people to be above average). Many biases can affect decision makers in many contexts, for example, confirmation bias (Einhorn and Hogarth, 1978). We do not purport to present and discuss a large list of biases and do not intend to discuss all documented negotiation-related biases (Malhotra and Bazerman, 2007; Bazerman and Moore, 2013; Thompson, 2012). Rather, this chapter focuses on three key aspects of negotiation: (1) biases of cognition, which include anchoring, framing, and decision fatigue; (2) biases of the process of negotiation, which include the fixed-pie perception, exaggeration of conflict, biased punctuation of conflict, and the illusion of transparency; and (3) biases of outcome and allocation, which include

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egocentric allocations and judgments of fairness, and reactive devaluation with regard to proposed solutions.

Biases of Cognition

In this section, we discuss biases that are often the first to emerge when negotiators are at the bargaining table. In some cases, these biases can be triggered before the negotiation even begins. For example people are much more cooperative in a prisoner's dilemma game when the game is described as the "community game" versus when it is described as the "Wall Street game" (Lieberman, Samuels, and Ross, 2004). Students taking economic courses play the same game more competitively than do students taking humanities courses (Frank, Gilovich, and Regan, 1993). And the mere presence of business-related objects, such as briefcases and business suits, leads people to behave more competitively in social encounters and economic games (Kay, Wheeler, Bargh, and Ross, 2004).

Anchoring. Anchoring is a bias that occurs when a salient reference point—an anchor—influences the range and diversity of people's thoughts and ideas (Tversky and Kahneman, 1974). It affects judgment because people do not sufficiently adjust away from the anchor (Epley and Gilovich, 2001). For example, if asked, "In what year was George Washington elected president?" most Americans who do not know the correct answer will anchor on the year 1776 (the year America declared independence) and give an estimate somewhere in the late 1770s, failing to sufficiently adjust away from the anchor (the correct answer is 1788).

Anchoring can bias judgments at every stage of the negotiation and conflict resolution process. For example, Northcraft and Neale (1987) surveyed real estate brokers who claimed they could assess the value of a property to within 5 percent of the true or appraised value. In their study, professional brokers as well as naive students were given a ten-page packet about a house for sale and asked to determine its value. Both the brokers and the students were affected by the list price of the house, which served as a powerful anchor, yet brokers denied using list price in their appraisal decision. Ritov (1996) found that extremely subtle shifts in how negotiators look at information can have a large impact on final outcomes. For example, buyers and sellers in a simulation viewed possible agreements in order that moved from best for the buyer to best for the seller; in all instances, the first possible agreement served as a powerful anchor.

The anchoring bias amplifies the importance of first offers and issue timing. Another investigation found that in both e-mail and face-to-face negotiations, those who made first offers in distributive negotiations claimed more

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total value (Galinsky and Mussweiler, 2001). Presumably the first offers acted as anchors from which the negotiating party was unable to sufficiently adjust. Anchoring can also affect the overall joint value of negotiated agreements. For example, in multi-issue negotiations with integrative potential, negotiators may anchor on one issue. The first issue chosen for discussion may influence the way the remaining issues are discussed and ultimately negotiated. For example, consider a negotiation with a supplier in which cost-efficiency and product quality are both important issues. Discussing cost-efficiency first may anchor the subsequent discussion of product quality on costs and benefits, reducing the focus on product quality.

Framing. Another cognitive bias that influences negotiation and conflict resolution is framing, which refers to the way in which a situation or decision is subjectively construed as a loss or a gain (Tversky and Kahneman, 1981). According to Tversky and Kahneman, almost any decision can be reframed as a gain or a loss relative to something. Thus, decision makers' reference points for defining gain and loss are often arbitrary. When outcomes are framed positively, as a gain, people tend to exhibit risk aversion, preferring a sure outcome over a risky gamble. However, when outcomes are framed negatively, as a loss, people become risk seeking, preferring risky gambles over sure outcomes.

How might framing bias negotiation and conflict resolution outcomes? In an initial experimental investigation of gain and loss framing on negotiation outcomes, Neale and Bazerman (1985) manipulated the framing of a contract negotiation between participants assigned to the role of a management or a union leader. Participants were much more likely to reach a negotiated settlement when concessions were framed as overall gains for the company than when they were framed as losses. When concessions were framed as losses, participants were more likely to opt for arbitration, a riskier outcome that often leads to impasse. If one negotiator has a negative (loss) frame and the other a positive (gain) frame, the negotiator with the negative frame reaps a greater share of the resources (Bottom and Studt, 1993).

Framing also affects behavior and outcomes across a series of negotiations. Negotiators who have recently experienced a string of failures are more likely to adopt a loss frame in a negotiation; conversely, negotiators who have experienced a string of success feel greater control (Kray, Paddock, and Galinsky, 2008). Loss-framed negotiators are reluctant to reveal information that could potentially be used to exploit them. In an investigation of ultimatum games, in which player 1 receives an endowment and decides how to allocate it between herself and player 2, player 2 is likely to accept unfair allocations when player 1's actions are framed as "claiming" rather than "dividing" resources (Blount and Larrick, 2000).

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Decision Fatigue. Decision making and negotiation can be tiring. Indeed, negotiators often view negotiations as stressful, and those who perceive it in this way are particularly vulnerable to low-quality outcomes and faulty perceptions (O'Connor, Arnold, and Maurizio, 2010). Moreover, making decisions can lead to mental fatigue and reduce people's ability to effectively make subsequent choices (Vohs et al., 2008). Making decisions reduces the effectiveness of subsequent decision making in a number of domains, ranging from simple consumer product choices (Bruyneel, Dewitte, Vohs, and Warlop, 2006) to complex judicial sentencing decisions (Danziger, Levav, and Avnaim-Pesso, 2011).

Negotiations and attempts at conflict resolution often involve multiple issues, parties, and rounds. In short, they can be long and tiring. Two aspects of negotiations can exacerbate decision fatigue: duration and information complexity. Duration, or the time course of a negotiation, is an important determinant of decision fatigue. Over the time course of a negotiation, it is increasingly likely that decision fatigue will bias subsequent decisions and outcomes. Early research documented the effects of duration on negotiation behavior. One study found that as a negotiation progressed, people tended to engage in fewer cognitively demanding activities, such as making high demands of their opponents and bluffing (Pruitt and Drews, 1969). Another determinant of decision fatigue is information complexity. As the number of issues and constituents in a negotiation increases, so does the number of possible negotiated agreements. Research on the psychology of choice suggests that as choice sets become larger, people exhibit a preference for simplicity (Iyengar and Kamenica, 2010) or prefer not to make a decision at all (Iyengar and Lepper, 2000). In complex and multiround negotiations, the search for simple solutions may bias a fatigued negotiator's judgment and result in capitulating on important issues or, alternatively, leaving the negotiation table altogether. In sum, decision fatigue is a prominent source of bias in negotiations and conflict resolution. It can lead to less strategic pursuit of desired outcomes and a preference for simplified decisions.

Fixed-Pie Perception In very general terms, people in negotiation and conflict situations tend to assume that the degree of opposition between themselves and other parties is greater than it actually is. A classic root cause of most ill-fated negotiations is the fixed-pie perception: the belief that the other party's gain comes at our expense and our gain at theirs (Bazerman and Neale, 1992; Thompson and Hastie, 1990). The fixed-pie perception simply means that most negotiators work under the assumption that the other party's gain is one's own loss, and vice versa. In one investigation, for example, more than two-thirds of the negotiators assumed that the amount of available resources was fixed, even though this was not the case (Thompson and Hastie, 1990).

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A close cousin of the fixed-pie perception is the lose-lose outcome (Thompson and Hrebec, 1996). The possibility of lose-lose negotiations often goes unchecked, because most people tend to view the opposite of win-win as win-lose; however, lose-lose negotiations do exist (Thompson and Hrebec, 1996). They occur if both parties settle for something that both prefer less than what they can readily have. Consider the following lose-lose situations:

- Two countries have been in conflict for decades. Each would benefit from peaceful coexistence, but their attempts at peace talks never achieve substantive progress, and the conflict rages on.
- The management and labor representatives for a local industry embroiled in contract-renewal talks both realize that if the union goes on strike, company owners and union membership alike will suffer. But they do not reach an agreement by the time the contract expires.

Given the ubiquity of the fixed-pie perception and its deleterious effects on negotiation, a great deal of research has examined how to minimize it. To the extent that negotiators share their interests and priorities and learn those of the other party, the fixed-pie perception can be dramatically reduced (Thompson, 1991). Another key way to combat this perception is to engage in perspective taking, or put oneself in the other negotiator's shoes. Perspective taking leads negotiators to construe the other party in a less competitive light (Neale and Bazerman, 1983) and increases the likelihood of using integrative bargaining tactics such as logrolling (Trötschel, Hüffmeier, Loschelder, Schwartz, and Gollwitzer, 2011). Perspective taking is distinctly more effective than is empathy when it comes to crafting integrative agreements (Galinsky, Maddux, Gilin, and White, 2008). Moreover, negotiators who behaviorally mimic their negotiation opponents are more likely to make accurate judgments and reach mutually beneficial agreements as compared to negotiators who do not mimic their opponents (Maddux, Mullen, and Galinsky, 2008).

Biases of Process and the Dance of Negotiation

In this section, we discuss biases that emerge during the process of negotiation, particularly as the sequence of offers and counteroffers occurs. Specifically, we discuss the exaggeration of conflict, the biased punctuation of conflict, and the illusion of transparency.

Exaggeration of Conflict. People involved in social or political conflict tend to overestimate the extremity of the other side's beliefs. Consider the reactions to the real-life conflict commonly referred to as the Howard Beach incident, in which a young black man, Michael Griffith, was struck and killed by a passing car as he attempted to escape a group of white pursuers in the

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Howard Beach neighborhood of Queens in New York City. In one study, people who characterized themselves as liberals or conservatives were asked to rate the extent to which they believed in the truth of certain statements about the case (“The white pursuers deliberately chased Michael Griffith into the path of oncoming traffic”; “Michael Griffith had consumed cocaine on the night in question”; Robinson, Keltner, Ward, and Ross, 1995).

The same people were then asked to predict how “the other side” would rate the truth of the same statements. That is, conservatives were asked to predict liberals’ ratings for each question, as were liberals asked to predict conservatives’ ratings. Both liberals and conservatives overestimated the difference between their side and the other. Liberals overestimated the extent to which conservatives believed in the truth of statements favoring the white perpetrators; conservatives overestimated the extent to which liberals believed in the truth of statements favoring the black victim. Thus, the partisans in this case believed that the distance between their positions was greater than it really was.

Perhaps most surprising, neutrals (people who described themselves as neither liberal nor conservative) also succumbed to this mistake; they too overestimated the gap between liberals’ and conservatives’ beliefs about the Howard Beach incident. All three groups (liberals, conservatives, and neutrals) exaggerated the extent of conflict: all three groups overestimated the extent to which conservatives would interpret the events in ways that blamed the black victim and the extent to which liberals would interpret events in ways that favored the black victim.

The pattern of results is not unique to this incident. Exaggeration of perceived conflict exists in many other domains: abortion, the death penalty, the arms race, and even the Western canon debate (the dispute among educators about the choice of books in introductory college-level civilization and literature courses; Robinson and Keltner, 1996).

It is important to consider the implications of the tendency for people to exaggerate conflict. If the partisans in a conflict perceive their differences as greater than they really are, they might be overly pessimistic about finding common ground. If people hold erroneous assumptions about the gap between their own position and that of the other party, then they might decide that it is not worthwhile to initiate negotiations (Robinson et al., 1995).

The fact that people exaggerate the extent of conflict suggests that information exchange among parties is crucial. Unless both parties to a conflict discuss the nature of their beliefs, assumptions, and concerns, each party continues to perceive the other as unreasonable and extreme. Because neutral third parties also tend to exaggerate conflict, these results have important implications for mediators as well. To be effective, mediators must accurately understand the other party’s interests. If a mediator relies on her

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preconceived assumptions about each party's position, she is likely to overestimate the extremity of each party's position and the disparity between the parties' interests.

In addition to forming an accurate understanding of the conflict, mediators have an important role to play in helping parties overcome their own perception of exaggerated conflict. Exaggeration of conflict comes in two forms: each party tends to see the other party's position as more extreme than it really is, and one's own side is also seen as more extreme than it really is (Robinson et al., 1995). Mediators can help parties see that their own position does not need to be as extreme as they think it needs to be.

Biased Punctuation of Conflict. The need to simplify a conflict situation can lead to faulty perceptions about cause-and-effect relationships. People may falsely infer a causal relationship where none exists, or they may assume that a given action by one person results in an action by the other person. This effect, known as the *biased punctuation of conflict*, occurs when people interpret interaction with their adversaries in other-derogating terms (Kahn and Kramer, 1990). Actor A perceives the history of conflict with another actor, B, as a sequence of B-A, B-A, B-A, in which the initial hostile or aggressive move was always made by B, obliging A to engage in defensive and legitimate retaliatory action. Actor B punctuates the same history of interaction as A-B, A-B, A-B, however, reversing the roles of aggressor and defender. Disagreement about how to punctuate a sequence of events in a conflict relationship is at the root of many disputes. When each side to the dispute is queried, they explain their frustrations and actions as defenses against the acts of the other party. As a result, conflict escalates unnecessarily.

Closely related to the biased punctuation of conflict is the fundamental attribution error (Ross, 1977). For example, negotiators who bargain with an opponent who has an attractive BATNA (best alternative to a negotiated agreement) and have difficulty settling on an outcome are inclined to regard the negotiator as disagreeable rather than to surmise that the other party has a better outside option (Morris, Larrick, and Su, 1999). In short, negotiators are quick to ascribe personality flaws as the root of intransigent behavior and overlook situational factors.

The Illusion of Transparency. In our daily interactions with others, we tend to assume that when we express particular emotions or preferences, the people with whom we are interacting will accurately detect these cues. Yet this is not necessarily the case. We often overestimate the degree to which others have access to our internal states.

The tendency to overestimate the degree to which others understand what is on our minds is known as the *illusion of transparency* (Gilovich, Savitsky,

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and Medvec, 1998). The illusion of transparency suggests that negotiators believe that they are revealing more than they actually are. In other words, they believe that others have access to information about them when in fact they do not. For example, in one investigation, negotiators judged whether an observer to the negotiation would be able to accurately discern their negotiation goals from their behavior (Vorauer and Claude, 1998). Negotiators consistently overestimated the transparency of their objectives. Thus, people feel more like an open book with respect to their goals and interests in negotiations than they actually are.

In highly contentious negotiations, parties may receive a better outcome if they do not express too much excitement over closing a deal. For instance, if a prospective home buyer is so enamored with the house that he may be willing to pay the asking price, then communicating this level of enthusiasm to the seller would put the buyer at a disadvantage. If the seller were aware of the buyer's exuberance, she may simply refuse to lower the price at all, knowing that the buyer would likely be willing to settle for the asking price. In this case, it is in the buyer's best interest not to let his enthusiasm for the home leak out. Yet even when we are consciously trying to hide our true preferences, we still experience the illusion of transparency. In one investigation, Van Boven, Gilovich, and Medvec (2003) found that negotiators who consciously tried to conceal their preferences nevertheless believed that they had tipped their hand to the other party more than they actually had: "The illusion of transparency is thus due to the sense that one's *specific* actions and reactions that arise in the give-and-take of negotiation—a blush here, an averted gaze there—are more telling than they actually are" (Van Boven et al., 2003, p. 128). Sometimes there are advantages to revealing information. For example, when negotiators have different priorities, negotiators who share information are more likely to reach integrative agreements than those who do not (Thompson, 1991). This is partly because of our inclination to reciprocate: if you share information, chances are that the other party will share information as well (Thompson, 1991). But the illusion of transparency can discourage beneficial information sharing because it can mislead negotiators into falsely believing that the other party has enough (or too much) information already (Van Boven et al., 2003). Alternatively, a negotiator who is aware that he might fall prey to the illusion of transparency can make a conscious effort to share information with the other party, thereby increasing the likelihood of resolving a conflict in a mutually beneficial way.

Biases of Outcome and Allocation

In this section, we discuss biases that affect how negotiators evaluate outcomes and allocations. Specifically, we focus on egocentrism and reactive devaluation.

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Egocentrism and Biases in Fairness Allocations. People tend to view themselves in a favorable light (Taylor and Brown, 1988). Our psychological immune system is so efficient that we do not even realize our judgments are tainted with self-interest. For example, consider a husband and wife reflecting on their perceptions of responsibility for cleaning dishes, shopping, child care, and other household and relationship activities. Imagine asking each spouse independently to score who does what percentage of the work. In such a case, both partners generally assume themselves to be more responsible than the other (Ross and Sicoly, 1979). When both spouses' contributions are totaled for a "couple's" score, the perceived contributions frequently amount to more than 100 percent! The same pattern can occur in mixed-motive situations. Such differences in perception undoubtedly exacerbate conflict at home, in the workplace, and elsewhere. For example, in the Chicago teachers' strike of 2012, Chicago teachers failed to reach an agreement with the city of Chicago regarding their pay and benefits. The resulting strike postponed the school year by over a week. Whereas the city thought it was making fair concessions by proposing to create new teacher jobs and a pay increase, the teachers perceived their previous concessions to be substantial; the result was gridlock and strike (Sustar, 2012).

Yet despite the egocentric bias, most negotiators describe themselves as wanting to be "fair" (Loewenstein, Thompson, and Bazerman, 1989). And most people also prefer to divide resources "fairly" (Messick, 1993). The problem is that self-interest tinges negotiators' perceptions of the fair allocation of resources. This is because fairness is not an absolute construct but highly subjective. What is fair to one person may not be fair in the eyes of another. Although people generally want what is fair, their assessments of fairness are often self-serving (Messick and Sentis, 1979). Moreover, the fact that we have little or no self-awareness of this influence on our otherwise sound judgment heightens the intransigence of our views. Suppose you have worked for seven hours and have been paid twenty-five dollars. Another person has worked for ten hours doing the same work. How much do you think the other person should get paid? If you're like most people, you believe the other person should get paid more for doing more work—about thirty dollars, on average (Messick and Sentis, 1979). This is hardly a self-serving response. Now consider the reverse situation: the other person has worked for seven hours and been paid twenty-five dollars. You have worked for ten hours. What is a fair wage for you to be paid? Messick and Sentis found the average response to be about thirty-five dollars. The difference is about ten dollars, and it illustrates the phenomenon of egocentric bias: people pay themselves substantially more than they are willing to pay others for doing the same task.

We have made the point that fairness is not an absolute construct; instead, it is socially defined. What is fair to one person may not be fair in the eyes

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of another. Consider what happened when two vice presidents of a major Fortune 100 company were promoted to senior vice president at about the same time in the late 1990s (Klein, 2003). Both moved into new offices, but one of them suspected an inequity. He pulled out blueprints and measured the square footage of each office. His suspicions were confirmed when it turned out the other's office was bigger than his by a few feet. A former employee said, "He blew a gasket." Walls were removed, and his office was reconfigured to make it as large as his counterpart's. This example illustrates that in any situation, there are as many interpretations of fairness as there are parties involved. Here, equality, equity, and need are all plausible principles on which a decision can be made. Hence, in conflict resolution, two people may both truly want a fair settlement, but they may have very different and equally justifiable ideas about what is fair.

Consider another example. You are told about an accident in which a motorcyclist was injured after being hit by a car. After learning all the facts, you are asked to make a judgment of how much money you think is a fair settlement to compensate the motorcyclist for his injuries. Then you are asked to play the role of either the injured motorcyclist or the driver of the car and to negotiate a settlement. Most of the time, people in this situation have no trouble coming to an agreement (Babcock, Loewenstein, Issacharoff, and Camerer, 1995).

Now imagine doing the same thing, except that your role assignment comes first. That is, first you are asked to play the role of the motorcyclist or the driver, and then you learn all the facts, decide on a fair settlement, and finally negotiate. In this situation, the only thing that changes is that you learn the facts and make a fair settlement judgment through the eyes of one of the parties instead of from the standpoint of a neutral observer. As it turns out, this difference is crucial. Instead of having no trouble coming to an agreement (as do the people who do not know their roles until just prior to the negotiation), people who know their roles from the beginning have a very difficult time coming to an agreement (Babcock et al., 1995). The high impasse rate among people who know their roles from the beginning is linked to self-serving judgments of fairness. The more biased the prenegotiation fair settlement judgment is, the more likely the later negotiation will result in impasse.

Thus, a person who knows she is playing the role of motorcyclist before making a fair-settlement judgment is likely to assess a large damage award (in her own favor). A person who knows he is playing the role of the car driver before making a fair-settlement judgment is more likely to assess a small damage award (in his own favor). The result is that these two people have quite a hard time negotiating an agreement because their assessments of what is fair are so far apart.

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Although biased perceptions of fairness are quite common (Babcock et al., 1995), cultural factors can exaggerate or mitigate these biases. In comparison to negotiators from individualistic cultures (e.g., the United States), negotiators from collectivist cultures (e.g., Japan) are less likely to hold such extreme biased perceptions of fairness (Gelfand et al., 2002). In one investigation, Gelfand et al. (2002) found that because of their higher levels of biased perceptions of fairness, U.S. negotiators experienced impasse more often compared to Japanese negotiators.

In general, there are often as many proposed solutions as there are parties to the conflict. Each party sincerely believes its own proposed outcome is fair for everyone. At the same time, each party's conception of fairness is tainted by self-interest, so that each solution is most favorable to the party proposing it.

Reactive Devaluation. When a conflict is resolved, the parties often assess how satisfied they are with the outcome of the resolution. Because of the absence of clear objective criteria, parties to conflict do not measure their outcomes on an absolute scale. Instead, success is a socially determined construct that is measured by many factors, including comparison with similar others, views of significant others, and the outcomes of one's opponent. In fact, there is little or no relationship between how good people feel and their actual outcomes (Thompson, 1991). In conflict situations in which parties' interests are not completely aligned, how good people feel is a converse function of the emotions displayed by the other person: when the other is sad, we feel good; when they are happy, we feel bad (Thompson, Valley, and Kramer, 1995).

Our feelings of satisfaction after the fact are not the only way we are affected by our opponent. Our preferences during an ongoing dispute can also be affected by the opponent's expressed preferences. For example, in a survey of opinions regarding possible arms reductions by the United States and the Soviet Union, respondents were asked to evaluate the terms of a nuclear disarmament proposal, a proposal that was allegedly initiated by the United States, Soviet Union, or a neutral third party (Ross and Stillinger, 1991). In all cases, the proposal was identical; however, reactions to it depended on who allegedly initiated it. The terms were seen as unfavorable to the United States when the Soviets were the initiators, even though the same terms appeared moderately favorable when attributed to a neutral third party and quite favorable when attributed to the United States. (See also Oskamp, 1965.)

This case is an example of *reactive devaluation*, the tendency for a party to undervalue an offer just because it was the other party who offered it (Oskamp, 1965; Ross and Stillinger, 1991). The reasoning behind reactive devaluation might sound like this: "My opponent wouldn't make this offer unless it's good for him. But if it's good for him, then it's probably bad for

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me, so I'll refuse to accept it." The examples of responses to the arms reduction proposals illustrate that our preferences and our evaluation of a dispute can be determined by the other party's preferences and reactions. When the other party is happy, we are sad; when the other party seems to favor a particular outcome, we devalue it.

Curhan, Neale, and Ross (2004) demonstrated that in typical negotiation formats, in which negotiators begin by simply exchanging initial proposals with one another, reactive devaluation of initial offers is a common response. By engaging in reactive devaluation—assuming the other party's offer was primarily beneficial for the other party—many negotiators failed to reach agreement with one another. Two techniques helped to prevent reactive devaluation. First, asking negotiators to assign a rating to a variety of proposals reduced reactive devaluation by motivating negotiators to remain consistent with their original assessment even after one of the previously rated proposals is endorsed by the opponent. Second, asking negotiators to have a general discussion about the issues on the table, without making any proposals or offers, also reduced reactive devaluation. During these discussions, negotiators were able to express their needs and priorities, leading their counterparts subsequently to make more charitable attributions about the offers they received. Both prerating proposals and prior discussion are techniques that can be easily implemented by a mediator; if no mediator is present, the parties can try to structure the negotiation so that prediscussion of needs and priorities takes place before any specific offers are exchanged.

IMPLICATIONS OF NEGOTIATOR BIAS

The incidence of bias takes its toll on negotiators and negotiation outcomes. Some of these negative effects are evident, such as the fact that the fixed-pie perception reduces mutual agreement and increases the incidence of lose-lose outcomes. However, biases might also exact a psychological toll on negotiators. In this section, we consider several negative effects of biases.

Exaggeration of Conflict: False Conflict

Negotiations that involve some amount of conflict or mixed motives are highly susceptible to exaggerated perceptions of conflict and competition. This can lead to false conflict, that is, conflict where no conflict exists. For example, people who take extreme positions on an issue assume their opponents take an equally strong, but opposite, position (van Boven, Judd, and Sherman, 2012). In a labor negotiation, a labor union may highly prioritize the issue of salary increases. Because the union holds such a strong position

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on the issue, union members may presume that management is strongly against salary increases, even though management may not hold a strong position at all. For example, Kelley and Stahelski (1970) classified negotiators as either predominantly cooperative or predominantly competitive on the basis of their actual behavior. In a subsequent simulation, competitors negotiated with cooperators; whereas cooperators accurately perceived the competitors to be fundamentally competitive, the competitors failed to realize that the cooperators had benevolent intentions, and instead falsely assumed the cooperators were behaving competitively, which ultimately paved the way toward lose-lose outcomes. Thus, cognitive biases and faulty perceptions exacerbate conflict.

Failure to Reach Agreement When Agreement Would Be Mutually Beneficial

Cognitive biases can lead negotiators to “leave value on the table.” The most drastic case is when negotiators opt for impasse when a mutually beneficial agreement could have been made. Cognitive biases can reduce negotiators’ abilities to reach a deal by restricting what we call *interpersonal scope* and *issue scope*. Interpersonal scope is the extent to which a negotiator considers the needs of the other party. Restrictions of interpersonal scope are fueled by egocentric biases, or the tendency to focus on one’s own perspective. In addition, because people have exclusive access to their own thoughts but others do not, they tend to overpredict how well the other party understands their arguments. Both of these tendencies lead to reductions in interpersonal scope: the extent to which a negotiator flexibly considers the issues involved to arrive at an optimal outcome. Anchoring and framing often restrict issue scope. For example, if one party anchors the negotiation with an extreme first offer, the other party might assume there is no zone of possible agreement and fail to pursue that issue for possible win-win solutions. Framing restricts issue scope when a particular frame causes an issue to be seen in only one way. For example, when concessions on an issue are framed as losses rather than gains, negotiators may dismiss them (Neale and Bazerman, 1985). Although we have distinguished interpersonal and issue scope, some biases are equally pernicious to both types. For example, decision fatigue will reduce a negotiator’s likelihood of considering the other party’s perspective (Lin, Keysar, and Epley, 2010) as well as being able to think flexibly about the issues on the table (Vohs et al., 2008).

Reaching Agreement Prematurely or in Substandard Way

Sometimes all of the people in an interdependent decision-making situation prefer one settlement to another but nevertheless fail to achieve it. This is known as a lose-lose outcome (Thompson and Hrebec, 1996). For example, in

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the end-of-year-2012 fiscal cliff negotiations, both Republicans and Democrats came to the table with a goal: Republicans wanted to cut government spending and Democrats wanted to raise taxes. Both Republicans and Democrats stood to lose by failing to reach agreement. However, after the midnight deadline passed on New Year's Day, President Obama and Congress were at a deadlock. On January 2, an agreement was clumsily reached, and by many accounts, the agreement was not attractive for any group, in particular, Republicans (Calmes, 2012). Known as a lose-lose agreement, both parties settled for an outcome that is clearly worse for both as compared to other viable outcomes.

The frequency with which lose-lose agreements occur is both surprising and alarming. One statistical analysis involving more than five thousand participants revealed that lose-lose agreements occurred 20 percent of the time (Thompson and Hrebec, 1996). That is, in cases where the parties have compatible preferences with regard to a particular issue, fully one time in five they agree on an alternative that both prefer less than another outcome. Moreover, it is unlikely that the lose-lose agreement is an artifact of the laboratory, with no real-world significance. Balke, Hammond, and Meyer's (1973) examination of labor-management negotiations at Dow Chemical is a case in point. Analysis of that dispute revealed that labor and management both preferred the same wage increase, yet neither party realized it until after a costly two-month strike.

Another example is illustrated in Walton and McKersie's analysis (1965) of the Cuban missile crisis, which stemmed from the Soviet Union's buildup of missile bases in Cuba during the Cold War. The crisis had reached dangerous proportions when the United States threatened to retaliate against the Soviet Union when Cuba fired on American airplanes. In fact, the Soviet Union, unbeknown to the United States, also preferred that Cuba refrain from provoking the United States because there was a danger that Cuba's behavior would incite a war over issues not important to Soviet interests. The parties that had come to the brink of nuclear war shared compatible interests without realizing it.

Why does this happen? As discussed earlier, people sometimes adopt a fixed-pie perception in which they believe that the other person's interests are completely opposed to their own. This belief is established at the outset, before people even have the opportunity to meet or talk with each other. In addition, the fixed-pie perception is remarkably durable; it remains even when people have attractive incentives and ample feedback is available to challenge the perception. But sometimes people do realize their preferences are compatible with the other party's and yet still fail to capitalize on shared interests. Political pressures, situational norms, and organizational constraints prevent people from optimizing their compatible interests. A vacation rental

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company with a week-long rental policy gets a call late in the week from a renter requesting a midweek stay. It would be better for both parties to rent the property, but this means that company policy would be broken, so the agency refuses. Parties may face similar kinds of social pressure in other situations, and the desire to save face may prevent a person from settling on what is obviously a better deal (Rubin, Pruitt, and Kim, 1994).

Negotiation Relationships

Another consequence of cognitive biases is that they can damage relationships between negotiators. Negotiators must often try to predict the thoughts and motives of their counterparts with little information. Because the fixed-pie bias often causes negotiators to perceive their counterparts as competitors who intend to claim their resources, negotiators often attribute malevolent intentions to their counterparts, leading to more competitive behavior (Epley, Caruso, and Bazerman, 2006). Viewing a counterpart as a competitor makes it more likely that a negotiator will approach a negotiation with a focus more on economic and outcome issues at the expense of relational concerns (Curhan, Elfenbein, and Xu, 2006). In sum, cognitive biases lead negotiators to view counterparties as adversaries, which reduces concerns for relational outcomes and may damage negotiators' relationships and reputations.

Self-Perception and Self-Confidence

Negotiators who are unable to reach their outcomes and maintain relationships may begin to suffer a loss of confidence and may begin to doubt their overall effectiveness in interpersonal relationships. Over time, negotiators who are ineffective may develop a prevention focus rather than a promotion focus. Negotiators who have a prevention focus try to avoid bad or undesirable outcomes; conversely, negotiators who have a promotion focus attempt to achieve desired goals. One investigation found that negotiators with a prevention focus achieve worse outcomes than do those with a promotion focus (Galinsky, Leonardelli, Okhuysen, and Mussweiler, 2005). Other research indicates that negotiators who have dealt with angry partners in the past are less (rather than more) likely to make demands in a subsequent negotiation (Van Kleef and DeDreu, 2010), suggesting that negotiators plummet further into self-doubt with negative experiences. The research suggests that failed bargaining experiences act as a self-fulfilling prophesy, such that negotiators who have reached impasses on a prior negotiation were more likely to have impasses in their next negotiation or reach deals of low joint value compared to those who had previously reached agreement (O'Conner, Arnold, and Burris, 2005).

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REMEDYING BIAS IN NEGOTIATION

Much more thought goes into examining the nature of bias and error at the bargaining table than to solutions as to how to eliminate or reduce it. Perhaps this reflects the fundamental tension between basic and applied research. However, we are not content to naively suggest that mere awareness of bias is sufficient to deal with it. We discuss two types of remedies: naturally occurring social-contextual factors that may either enhance or exacerbate biases, including teams of negotiators, constituency and accountability pressure, communication media, and social relationships; and deliberate and structured interventions, such as might occur in a classroom or training session, including feedback, analogical reasoning, and formal training.

Naturally Occurring Remedies of Bias

The Team Effect. *Team effect* refers to the empirical observation that as compared to one-on-one negotiations, teams are better able to forge mutually beneficial agreements in negotiations that contain potential for integrative agreement (Thompson, Peterson, and Brodt, 1996). Specifically, a comparison of three types of negotiation configurations (team versus team, team versus solo, and solo versus solo negotiations) revealed that the presence of at least one team at the bargaining table increased the overall joint value (Thompson, Peterson, and Brodt, 1996). Why are teams able to forge mutually beneficial agreements when solos often fail? Negotiators exchange more information when a team is at the bargaining table than when just two parties negotiate (O'Connor, 1997; Carnevale, 2008). Information exchange leads to greater judgment accuracy about parties' interests, which paves the way toward integrative agreement.

Constituency and Accountability Pressure. A number of studies have found that when negotiators are accountable to a constituency, they often bargain in a more assertive fashion. When the bargaining zone is small and the potential for integrative agreements does not exist, constituency pressure may lead to deadlock and impasse. However, other research has found that in cases where negotiators often too rapidly capitulate and make concessions, accountability to another party can lead to more beneficial outcomes. For example, in research on gender and negotiation, women often perform worse than men, holding other factors constant (Kray, Thompson, and Galinsky, 2001). However, when females are positioned to be accountable to another, they are more likely to forge better deals (Bowles, Babcock, and McGinn, 2005; Bowles, Babcock, and Lai, 2007; Amanatullah and Morris, 2010).

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Relationships. The relationship between negotiators may affect cognitive biases. For example, negotiators who are friends or have close network ties may be less likely to falsely presume conflict with the other party and may even be able to synchronize and communicate more fluently. It is likely that close negotiators come to the bargaining table with an eye toward their own outcomes and toward future negotiations and reputation. However, friendships may exacerbate decision biases such as anchoring and framing effects. If one negotiator anchors on a particular issue, the friendship may make it especially hard to adjust away from that offer for fear of damaging the relationship or a common network tie. Indeed, negotiators may engage in premature concession making, and such unmitigated communion might paradoxically reduce joint gains (Amanatullah, Morris, and Curhan, 2008).

Communication Medium. Negotiation modalities can range from text or e-mail messages to face-to-face conversation. In an initial study of e-mail negotiation, negotiators who had only e-mail contact fared much worse than did those who had an opportunity to connect by phone (Moore, Kurtzberg, Thompson, and Morris, 1999). The most personal modality, face-to-face, helps to diffuse biases that result from impoverished communication; even a short telephone call can pave the way to integrative agreement (Morris, Nadler, Kurtzberg, and Thompson, 2002). However, because face-to-face negotiations tend to take more time and effort than less rich modalities (Purdy, Nye, and Balakrishnan, 2000), they may also exacerbate biases that result from decision fatigue. On the other end of the spectrum, negotiations by e-mail can be helpful when negotiations are simple and the issues can be clearly laid out or when it is possible that a negotiator may get overly emotional in person. However, the impoverished communication medium may exacerbate perceived conflicts by not providing sufficient context around communications.

Deliberate and Structured Interventions for Remedying Bias

Feedback. Most people do not get timely or accurate feedback about their negotiation performance. Thus, they continue to make the same mistakes time and again. To return to the fixed-pie perception, most negotiators assume that the other party's gain comes at their direct loss, and vice versa. Even if people receive feedback, it is often incomplete or misconstrued, whether by the sender or the recipient. This, of course, is consistent with the egocentric biases we discussed earlier.

As a way of combating bias, Thompson and DeHarpoort (1994) examined the effects of three types of feedback: process feedback, outcome feedback,

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and no feedback. Negotiators who received no feedback knew nothing about the other party or the underlying structure of the negotiation. They were given a blank sheet of paper and asked to write some comments about the nature of their experience in the negotiation they had just completed. Negotiators who received outcome feedback were told the value of the overall package to the other party in the completed negotiation. This feedback provided important information about the underlying structure of the negotiation. Finally, negotiators who received process feedback were given complete information about their opponent's preferences for each issue negotiated.

As an example, for a company representative who negotiated an employment contract, process feedback imparted information about how the employee subjectively valued the various issues discussed (salary, vacation, annual raise, and so on). Negotiators who received process feedback were most likely to abandon the pervasive fixed-pie assumption in subsequent negotiations and to recognize trade-offs that were mutually beneficial for both parties. Suppose two negotiators have just received process feedback after negotiating a job contract. Assume these same parties are to negotiate again about a completely different set of issues, say, regarding a house rental. Having received process feedback, they are likely to assume correctly that not every gain for the other party constitutes an equal loss for themselves. Furthermore, they recognize that mutually beneficial exchanges can be made: if the landlord is to concede on an issue important to the tenant (say, monthly rent), then in exchange, the tenant can concede on an issue important to the landlord (lease length). In this way, negotiators who receive process feedback reach agreements that are satisfactory to both parties. By contrast, negotiators who receive only outcome feedback are not as successful in recognizing this integrative potential, and those who receive no feedback are the least successful of all.

Analogical Reasoning. One of the most effective means by which people solve problems is analogical reasoning (Gick and Holyoak, 1983). Analogy is the process of mapping the solution for one problem into a solution for another problem. This involves noticing that a solution to a problem from the past is relevant, and then mapping the elements from that solution to the target problem. For example, a student learning about the structure of the atom furthers her understanding by drawing on her prior knowledge of the structure of the solar system.

In many instances, experienced negotiators have occasion to reason by analogy from a previous negotiation experience but often fail to do so. This problem of failing to capitalize on opportunities to learn by analogy is not limited to negotiators; in general, people's ability to take full advantage of prior experience is highly limited (Loewenstein, Thompson, and Gentner,

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1999). Having solved one problem does not always help in solving an analogous problem if the two come from different contexts. We do not always access prior knowledge, given an analogous situation.

In a study of learning by analogy (Gick and Holyoak, 1983), students were given a problem about how to use radiation to destroy a patient's tumor, given that the stream of rays at full strength will destroy the healthy tissue en route to the tumor. The solution is to converge on the tumor with low-strength radiation from multiple directions. Having been given this problem and learned the solution, people are then given an analogous one: a general needs to capture a fortress but finds he cannot use his entire army to make a frontal attack. One solution is to divide the army and converge on the fortress from many directions. Even when the tumor problem and the fortress problem are presented in the same session, only about 41 percent of students spontaneously applied the convergence solution to the radiation problem. Though they retained the knowledge about the first solution, they failed to access it. Yet when simply told to "think about the earlier [tumor] problem," a full 85 percent of students applied the convergence solution to the new problem. Simply reminding people of an analogous problem helps them map the solution onto the new problem.

The good news for negotiators is that analogy training can substantially improve negotiation performance. In one study, managers who received analogy training were nearly three times as likely to recognize and apply the appropriate principle in future negotiations (Loewenstein et al., 1999). As a result, negotiators who had analogy training outperformed those who did not. For example, in negotiating a deal for a Broadway production, negotiation dyads with analogy training gained an average of twenty-one thousand dollars over their untrained counterparts, who made suboptimal agreements and left large amounts of money on the bargaining table—wasted, as far as both parties were concerned. A subsequent investigation revealed that reading two examples is no more effective than reading just one example unless the learner compares the examples (Gentner, Loewenstein, Thompson, and Forbus, 2009). Moreover, by comparing two or more examples, negotiators can not only perform better in subsequent negotiations, they can more meaningfully analyze their previous negotiation experiences (Gentner et al., 2009).

In another study of negotiator training, four other learning principles were compared to learning by analogy (Nadler, Thompson, and Van Boven, 2003):

- Learning by observation (watching other negotiators)
- Textbook learning (reading about negotiation principles)
- Earning by feedback (process feedback, as described in the previous section)
- Learning by experience only (no explicit training)

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The greatest improvement in negotiator performance was seen with negotiators who had analogy training or observation training. Performance also improved, albeit to a lesser extent, when negotiators learned through feedback. Those exposed to textbook learning or to learning by experience alone showed no measurable improvement in performance. Thus, the picture emerging from this research is that training programs teaching negotiators how to make relevant comparisons between prior and current negotiation experiences are extremely important for equipping negotiators with the skills to leverage their past experiences in current and future negotiations.

Negotiation Skills Training. Several studies have used training and education to improve negotiators' effectiveness. For example, Idson and colleagues (2004) trained negotiators to focus more accurately on the decisions of other parties in mixed-motive negotiations and found that participants made superior decisions. Similarly, Moran and Ritov (2007) found that negotiators who understand their opponent's gains for particular offers versus their general priorities among issues were more likely to improve their performance. In a different set of experiments, Kray, Galinsky, and Markman (2009) found that negotiators who generate additive (as opposed to subtractive) counterfactuals for negotiations perform better.

One fruitful line of research involves regulating emotions in negotiations that involve high conflict. The idea here is that the general ability to regulate one's emotions at the bargaining table will help people keep a level head during heated negotiations. In one study, Israeli participants were exposed to information about the Israeli-Palestinian conflict and then rated their support for different policies that address the situation. In addition, half the participants were given cognitive-reappraisal training, which teaches people to change the meaning of a situation in order to change their emotional responses to that situation (see Ochsner and Gross, 2008), and the other half were not trained. Those who were trained with cognitive-reappraisal strategies showed more support for conciliatory policies and less support for aggressive policies than those with no training (Halperin, Porat, Tamir, and Gross, 2012). Because negotiators' effectiveness is contingent on their thoughts and feelings at the bargaining table, strategies that can help negotiators optimally regulate their behavior may help improve the outcomes of negotiations and conflict resolution attempts.

CONCLUSION

We believe that the marriage between practitioners and theorists should be much more solid than it is. Theorists have identified a host of rather benign-looking beliefs and cognitions that hinder effective negotiations, but

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they have failed to produce a systematic body of research aimed at reducing cognitive biases that hinder effective dispute resolution. Unfortunately, most negotiators are not aware of the existence of cognitive bias and its deleterious effects. In this chapter, we have identified biases that negotiators carry into negotiation, biases that erupt during negotiation, and biases that contaminate negotiators' perceptions of outcomes. We examined naturally occurring remedies as well as structured techniques to remove or mitigate bias. We hope that theorists and practitioners continue to identify and examine new methods by which to eliminate or reduce cognitive bias at the bargaining table.

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