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Principles for Designing Negotiation Instruction

*John Lande, Ximena Bustamante, Jay Folberg & Joel Lee**

What's a negotiation instructor to do? So much to teach, and so little time. Most instructors can't shoehorn into a traditional negotiation course¹ all the things they would like to do. Participants

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¹ Negotiation is typically taught in training programs and university courses, among other formats. Compared with courses, training programs are often in shorter and more concentrated periods of time and typically do not require students to do substantial reading or writing assignments. So instructors encounter greater constraints in training programs than in courses. Even so, course instructors have a daunting set of decisions to make in designing their instruction. The principles described in this article apply to various instructional formats, though instructors would necessarily apply them differently in different formats. For convenience, this article generally refers to course instruction but can be applied in various formats. Similarly, the article generally refers to students rather than trainees.

This usage differs from Kevin Avruch's thoughtful discussion of distinctions between training and education, which focuses on whether the instruction involves supposedly undisputed canonical knowledge (i.e., training) as opposed to matters that are subject to critique and revision (i.e., education). Kevin Avruch, *What is Training All About?*, 25 NEGOTIATION J. 161 (2009). This is similar to Ron Fortgang's distinction between "proselytizing" and a pluralistic "world religions" approach to instruction. See generally Ron S. Fortgang, *Taking Stock: An Analysis of Negotiation Pedagogy Across Four Professional Fields*, 16 NEGOTIATION J. 325 (2000).

in the Rethinking Negotiation Teaching² (RNT) conferences have identified many additional subjects and instructional methods, which increases opportunities to provide the best possible instruction but also increases the challenges in doing so. Instructors' dilemmas are compounded when teaching negotiation outside of their home instructional environment. In any case, they should consider the many variations in audiences, settings, and goals of the negotiation instruction. The RNT project calls on instructors not to "over-rely on 'canned' material of little relevance to students."³

Since instructors cannot teach everything about negotiation in a single course, this article suggests some general principles for instructors to make decisions for their courses, whether they teach them internationally and/or domestically. It incorporates many of the ideas suggested in the three RNT conferences as well as the predecessor efforts reflected in a symposium in the *Marquette Law Review*,⁴ *Negotiation Journal*,⁵ and the *Negotiator's Fieldbook*.⁶

² Hamline University School of Law has conducted the Rethinking Negotiation Teaching (RNT) project in cooperation with the JAMS Foundation, Convenor Conflict Management and ADR Center Foundation (Italy). The project's goals are to "critique contemporary negotiation pedagogy and create new training designs." The project has published four volumes of publications as well as a special issue of *Negotiation Journal* and one of the *Hamline Journal of Public Law and Policy* based on conferences of negotiation instructors and other experts. The project has also launched *Tan Pan*, the Chinese-English Journal of Negotiation. The conferences took place in Rome, Italy (May 2008), Istanbul, Turkey (October 2009), and Beijing, China (May 2010). The chapters from the three volumes (including the one in which this article appears) can be downloaded from the project's website, http://law.hamline.edu/dri/second_gen/index.html.

³ Christopher Honeyman & James Coben, *Introduction: Halfway to a Second Generation*, in, *VENTURING BEYOND THE CLASSROOM* 1, 2 (Christopher Honeyman et al. eds., 2010).

⁴ See generally Christopher Honeyman & Andrea K. Schneider, *Catching Up with the Major-General: The Need for a "Canon" of Negotiation*, 87 *MARQ. L. REV.* 637 (2004).

⁵ See generally Christopher Honeyman et al., *Second Generation Global Negotiation Education*, 25 *NEGOTIATION J.* 141 (2009).

Indeed, this article is intended to serve as an index to these publications, helping readers follow up particular issues by identifying readings on point.

There is no one right or best way to teach negotiation, so instructors should select approaches most suitable to their situations. The following ideas include some general suggestions that should be applicable in most situations as well as a menu of ideas that instructors can choose from.

I. General Principles for Instructional Design

Instructors should carefully develop instructional goals and objectives, which should generally drive their decisions.⁷ Some common goals are for students to (1) increase their understanding of different negotiation approaches and perspectives, (2) become more careful observers of negotiation process, goals, tactics, and effects, (3) enhance negotiation skills, (4) change their attitudes about particular negotiation approaches, (5) understand policy issues about negotiation, and (6) learn to learn (or “metacognition”).⁸

⁶ See generally THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR (Andrea K. Schneider & Christopher Honeyman eds. 2006).

⁷ See generally Harold I. Abramson, *Outward Bound to Other Cultures: Seven Guidelines*, in RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE 293 (Christopher Honeyman et al. eds., 2009); Lynn Cohn et al., *We Came, We Trained, But Did it Matter?*, in RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE 329 (Christopher Honeyman et al. eds., 2009); Bobbi McAdoo & Melissa Manwaring, *Teaching for Implementation: Designing Negotiation Curricula to Maximize Long-Term Learning*, 25 NEGOTIATION J. 195 (2009); Melissa L. Nelken et al., *Negotiating Learning Environments*, in RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE 199 (Christopher Honeyman et al. eds., 2009); John Wade, *Defining Success in Negotiation and Other Dispute Resolution Training*, 25 NEGOTIATION J. 171 (2009).

⁸ See Michael Moffitt & Scott R. Peppet, *Action Science and Negotiation*, 87 MARQ. L. REV. 649, 652-54 (2004). See generally Nadja Alexander & Michelle LeBaron, *Death of the Role-Play*, in RETHINKING NEGOTIATION TEACHING:

Courses using case studies of actual negotiations may emphasize goals of gaining a realistic understanding of what actually happens in negotiation and appreciating the multiplicity of variables and complexity of interactions between actors.⁹ Obviously, these are very general goals and instructors are likely to have particular versions of their goals relating to the specific knowledge and skills they want their students to develop.

Instructors must decide how much to incorporate standard modules from prior courses and how much to tailor the course to the expected class. Generally, instructors should increase the amount they modify the material in proportion to the extent to which the class population is likely to differ from prior classes who took the course. Instructors should consider possible differences in the student population (e.g., university students vs. practitioners); instructional format; or educational, practice, or national culture. When instructors have previously taught the course to a similar set of students in the same culture and it worked well, there is less need to modify the course (other than to incorporate new developments since the prior offering). On the other hand, if there are significant differences, instructors should change their plans accordingly. Although it might be easier to use standard repeatable modules for all courses, students are likely to be more motivated to learn if instructors tailor the courses to fit the students' circumstances.¹⁰

INNOVATIONS FOR CONTEXT AND CULTURE 179 (Christopher Honeyman et al. eds., 2009); McAdoo & Manwaring, *supra* note 7; Nelken et al., *supra* note 7.

⁹ See generally David Matz, *What Really Happened in the Negotiation*, in RETHINKING NEGOTIATION TEACHING: INNOVATION FOR CONTEXT AND CULTURE 269 (Christopher Honeyman et al. eds., 2009).

¹⁰ See generally Michelle LeBaron & Mario Patera, *Reflective Practice in the New Millennium*, in RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE 45 (Christopher Honeyman et al. eds., 2009); Nelken et al., *supra* note 7; Roy J. Lewicki & Andrea K. Schneider, *Instructors Heed the Who: Designing Negotiation Training with the Learner in Mind*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 43 (Christopher Honeyman et al. eds., 2010).

Beyond customizing the course to increase knowledge and skills that are relevant to students' national or ethnic cultures,¹¹ instructors should also consider the students' *educational* cultures. For example, negotiation courses in law schools and business schools are embedded in cultures with norms and expectations about how courses are taught, what students are expected to do in the courses, and how the material is relevant to negotiations that students are likely to engage in during their careers. Similarly, negotiation trainings for business executives and lawyers have particular (and usually different) norms and expectations. Instructors should be sensitive to students' technological culture as well. Increasingly, students will be oriented to technologically sophisticated environments and instructors should consider how they can best work with their students in their technological environment. Moreover, when students participate in the instruction as members of an organization, the instruction should be tailored to be most effective within the organizational culture.¹²

The tailoring of a negotiation course should be oriented to the assumptions, ideas, and values that students bring into the classroom, as they will have to integrate new ideas and experiences into their initial mindsets.¹³ For example, students normally start with certain orientations about competition and cooperation that are likely to affect how they respond to course material. Ideally, before a course begins, instructors would get a sense of what ideas students bring to the course¹⁴ but even if not, instructors can certainly elicit

¹¹ See Abramson, *supra* note 7; Kimberlee Kovach, *Culture, Cognition and Learning Preferences*, in *RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE* 343 (Christopher Honeyman et al. eds., 2009). See generally Phyllis E. Bernard, *Re-Orienting the Trainer to Navigate – Not Negotiate – Islamic Cultural Values*, in *VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES* 61 (Christopher Honeyman et al. eds., 2010); Lewicki & Scheider, *supra* note 10.

¹² See Cohn et al., *supra* note 7.

¹³ See Abramson, *supra* note 7; LeBaron & Patera, *supra* note 10; Nelken et al., *supra* note 7.

¹⁴ See generally Anita D. Bhappu et al., *Online Communication Technology and Relational Development*, in *RETHINKING NEGOTIATION TEACHING: INNOVATIONS*

it early in the course.¹⁵ They should also consider students' comfort levels with and openness to challenge and ambiguity.¹⁶

Instructors should not necessarily conform to students' educational norms and expectations; but they should pay attention to them. This is not to suggest that instructors should necessarily try to agree with students' predispositions; actually, instructors may want to challenge students to re-examine their preconceptions. Indeed, an important part of learning involves transformation of the mental "schemas" that students bring into the course about the subject and teaching methods.¹⁷ Instructors who deviate from accepted norms may encounter student resistance, which can divert attention and interfere with the learning process. If instructors decide that they can best achieve their goals by deviating from educational norms in some way, it is useful to be especially clear about the learning objectives and rationale, as this is likely to lead students to respond better and learn more. For example, instructors should be particularly clear about the rationale and expectations for adventure learning assignments, since many students are not familiar with them.¹⁸ The RNT project documented educational

FOR CONTEXT AND CULTURE 239 (Christopher Honeyman et al. eds., 2009); Cohn et al., *supra* note 7.

¹⁵ See Abramson, *supra* note 7.

¹⁶ See generally Adam Kamp, *Is What's Good for the Gander Good for the Goose? A "Semi-Student" Perspective*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 191 (Christopher Honeyman et al. eds., 2010).

¹⁷ See McAdoo & Manwaring, *supra* note 7.

¹⁸ Some chapters in prior RNT publications focus on achieving a goal of "authenticity" in student activities. See, e.g., LeBaron and Patera, *supra* note 10, at 59. We think that it is more useful to focus on goals of relevance and promoting learning. Authenticity in a course activity can be useful but, in itself, it does not necessarily lead to students finding that the activities are relevant to them, or that they promote important learning. See Melissa Manwaring et al., *Orientation and Disorientation: Two Approaches Designing "Authentic" Negotiation Learning Activities*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION SERIES 121 (Christopher Honeyman et al. eds., 2010); Salvador S. Panga & Gwen B. Grecia-de Vera, *A Look at a Negotiation 2.0 Classroom: Using Adventure Learning Modules to*

risks as well as benefits in adventure learning, suggesting the need for particular care when incorporating such activities in negotiation instruction.¹⁹ Instructors should also clearly explain the rationale even for more familiar methods such as simulations,²⁰ which can be problematic if not well planned and implemented.²¹ This principle applies for topics as well as teaching methods, such that instructors should be especially explicit about the rationale for covering topics that students would not immediately expect to be included in negotiation courses, such as mindfulness, curiosity, generosity, and even emotions.²²

Instructors should design their courses to promote students' motivation to engage in the course activities productively. Although it would be ideal if all students were highly-motivated and responsible throughout a course, some start with less-than-optimal motivation and may not respond well to particular course activities and assignments. Students predictably (and sometimes

Supplement Negotiation Simulations, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 169 (Christopher Honeyman et al. eds., 2010).

¹⁹ There are so many chapters about adventure learning in the two prior RNT volumes that we do not list them all. Two chapters were particularly helpful in providing systematic analysis and advice in planning and conducting adventure learning activities. See Manwaring et al., *supra* note 18; Sharon Press & Christopher Honeyman, *A Second Dive into Adventure Learning*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 217 (Christopher Honeyman et al. eds., 2010). Some hybrid activities may combine the benefits of simulations and adventure learning activities. See Lynn P. Cohn & Noam Ebner, *Bringing Negotiation Teaching to Life: From the Classroom to the Campus to the Community*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 153 (Christopher Honeyman et al. eds., 2010).

²⁰ See Noam Ebner & Kimberlee K. Kovach, *Simulation 2.0: The Resurrection*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 245 (Christopher Honeyman et al. eds., 2010).

²¹ See Alexander & LeBaron, *supra* note 8.

²² See Melissa L. Nelken, *Negotiation and Psychoanalysis: If I'd Wanted to Learn About Feelings, I Wouldn't Have Gone to Law School*, 46 J. LEGAL EDUC. 420 (1996).

legitimately) do not respond well if they believe that the course activities are not valuable for them.

Engaging students in developing their goals and activities may help motivate them to work harder and learn more.²³ There is evidence that requiring students to *design* simulations, for example, may be a particularly good teaching strategy.²⁴ The extent that instructors should engage students in designing the instruction, if at all, is a function of various factors including the students' level of motivation, experience, judgment, and maturity as well as cultural norms about roles of students and instructors.

Furthermore, engaging students in designing some aspects of a course can help instructors focus the course at an appropriate level of challenge for the students in the class.²⁵ Students are likely to learn most if they find the course is neither too easy nor too hard. If it is too easy, they miss some opportunities for learning and may lose motivation to engage in the course. On the other hand, if they find the course too hard, they may get discouraged and also fail to learn as much as possible. Of course, a class may be composed of students at different levels of ability so that what may be too easy for some students may be appropriate or too hard for others. Thus, instructors should consider if there is likely to be a substantial range of student abilities and, if so, design the course to provide learning opportunities at an appropriate level of challenge for as many students as possible. Moreover, students have different learning

²³ See Melissa L. Nelken, *Negotiating Classroom Process: Lessons from Adult Learning*, 25 NEGOTIATION J. 181 (2009); Nelken et al., *supra* note 7.

²⁴ See Daniel Druckman, *Uses of a Marathon Exercise*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 645 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Daniel Druckman & Noam Ebner, *Enhancing Concept Learning: The Simulation Design Experience*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 269 (Christopher Honeyman et al. eds., 2010); Noam Ebner & Daniel Druckman, *Simulation Design for Learning and Assessments*, in ASSESSING OUR STUDENTS, ASSESSING OURSELVES: VOLUME 3 IN THE RETHINKING NEGOTIATION TEACHING SERIES 139 (Noam Ebner et al. eds., 2012).

²⁵ See Nelken et al., *supra* note 7.

styles (such as being more active or reflective) that affect how well they respond.²⁶ Instructors need to take special care when the instruction is not in the native language of some or all of the students.²⁷

II. A Canon of Negotiation

We believe that there is significant value in both having a common body of instruction and also tailoring instruction to the particular circumstances of each course. Without a shared “canon” of negotiation instruction,²⁸ people essentially talk different “languages,” making it hard to be as effective as possible. When most instructors include major elements of the canon in their courses, it can help students and practitioners communicate and work with each other more effectively as part of a common professional community. This is not to advocate an orthodox canon of a single, unassailable approach to instruction. Instead, we believe that the canon is (and should be) a general set of issues and understandings that is always subject to question and improvement. The RNT project challenges the community of negotiation instructors to consider broadening the canon by including additional perspectives, topics for instruction, and teaching methods.

In fact, there has been a general canon of negotiation instruction, sometimes called “Negotiation 1.0” in RNT terminology. We believe that the terms “Negotiation 1.0” and, as the reader will encounter later, “Negotiation 2.0,” may have had developmental value in assisting us to think about the distinctions between “what we have always done” and “what we could possibly do.” That said, we think that this terminology oversimplifies and creates a misimpression that Negotiation 2.0 is necessarily superior

²⁶ See Kovach, *supra* note 11.

²⁷ See Abramson, *supra* note 7; Joseph B. Stulberg et al., *Minimizing Communication Barriers*, in *RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE* 315 (Christopher Honeyman et al. eds., 2009).

²⁸ See Honeyman & Schneider, *supra* note 4.

to Negotiation 1.0. We will say more about this at the end of this article.

In 1999-2000, the Harvard Program on Negotiation conducted a study involving interviews with prominent negotiation instructors in law, business, public policy and planning, and international relations programs. The study found some common themes as well as variations within and between the four types of programs. Some of the variations reflected differences in emphasis on particular elements (such as instruction in theory and practical skills). In general, the courses normally provided an intellectual framework for negotiation analysis such as assessing parties' interests and options, identifying reservation points and bargaining ranges, gathering necessary information, and considering various factors that might affect negotiation. The courses also shared common methods including use of simulations and debriefings, opportunities for student reflection, and requirements for self-assessment and evaluation.²⁹ Similarly, Christopher Honeyman and Andrea K. Schneider reported that experts at a 2003 symposium on negotiation instruction identified six topics that are most commonly part of a negotiation teaching: (1) personal strategy, (2) communication skills, (3) integrative and distribution negotiation, (4) bargaining zones, alternatives to negotiated agreements, and reservation prices, (5) generating options, and (6) preparation for negotiation.³⁰ A review of law school syllabi of negotiation courses posted on the website of the University of Missouri Center for the Study of Dispute Resolution's Dispute Resolution Resources for Legal Education suggests a similar congruity. The courses covered various negotiation theories, typically including interest-based and positional negotiation, as well as others such as game theory and procedural justice theory. Courses covered stages of negotiation and legal and ethical issues related to negotiation and included instruction in relevant skills such as self-reflection, communication, interviewing, counseling, using assertiveness and empathy,

²⁹ See Fortgang, *supra* note 1; See generally SARA COBB, NEGOTIATION PEDAGOGY: A RESEARCH SURVEY OF FOUR DISCIPLINES (2000).

³⁰ See Honeyman & Schneider, *supra* note 28.

preparation, and dealing with differences in power and culture. As one would expect, not all courses include all of these issues.

Several RNT authors have highlighted the importance of including negotiation ethics as part of the canon.³¹ Similarly, we believe that laws governing negotiation should be part of the canon, at least when the negotiation is subject to legal regulation.³²

III. Instructional Enhancements

The RNT project is designed to improve negotiation instruction, at least partly by increasing the range of subjects and teaching methods that instructors might include. In RNT parlance, the new instructional approach is called “Negotiation 2.0.” In the past, some instructors have certainly included some of these enhancements in their teaching, though they have probably not been included in most courses. Since instructors have a hard time cramming in everything they want from Negotiation 1.0, the challenge is even greater with the enlarged menu of options offered by Negotiation 2.0.³³ This section summarizes some of the additional choices that instructors may consider.³⁴

³¹ See generally Kevin Gibson, *The New Canon of Negotiation Ethics*, 87 MARQ. L. REV. 747 (2004); Kevin Gibson, *Ethics and Morality in Negotiation*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 175 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Carrie Menkel-Meadow, *The Ethics of Compromise*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 155 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Jacqueline Nolan-Haley & Ewa Gmurzynska, *Culture – The Body/Soul Connector in Negotiation Ethics*, in RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE 139 (Christopher Honeyman et al. eds., 2009); Schneider et al., *Ethics in Legal Negotiations: A Cross-Cultural Perspective*, in EDUCATING NEGOTIATORS FOR A CONNECTED WORLD: VOLUME 4 IN THE RETHINKING NEGOTIATION TEACHING SERIES (Christopher Honeyman et al. eds.) (forthcoming 2012).

³² See Russell Korobkin et al., *The Law of Bargaining*, 87 MARQ. L. REV. 839 (2004).

³³ This is somewhat reminiscent of our meals in Beijing where our gracious hosts provided an overwhelming assortment of dishes. Some of us used strategies

A. Perspectives, Theories, and Assumptions

Instructors must make explicit or implicit decisions about their overall perspectives in teaching their courses. For example, this may involve a broad perspective based on theories about social construction of conflict, relationship systems, identity and culture, or particular disciplines such as psychology or neurobiology. A

of trying a little of everything. Others favored the tried and true. Yet others were especially attracted to unfamiliar dishes. In any case, we all had to choose. We didn't notice anyone who tried to fill up on all the dishes, but even that would have been a choice.

³⁴ The Program on Negotiation study of negotiation pedagogy identified many issues arising in the RNT project. It found differences:

- 1) between a focus on skills and a focus on analytic or theoretical competence;
- 2) between a commitment to the practice of reflection and a commitment to analytic writing;
- 3) between a focus on structural and strategic analysis and a focus on managing relational processes;
- 4) between an essentialized view of culture and a view of culture as emergent normative frames for interaction;
- 5) between a view of negotiation power as a function of resources and a view of power as the structural and discursive constraint on action;
- 6) between a preference for scorable games/structured simulations and a preference for the inductive use of cases/role plays to surface core issues in negotiation;
- 7) between courses that offer multiple frames for understanding and those that advocate a particular frame;
- 8) between courses that accent two-party negotiations and those that presume multi-party;
- 9) between professors/institutions that have resources to use videotape and multiple teaching assistants and those who must rely on individualized meetings with students in order to provide feedback;
- 10) between courses that address gender and those that do not;
- 11) between courses that problematize the role of the agent in multi-party disputes (as neutral or as advocate) and those that do not;
- 12) between courses that focus on emotion and identity as contexts for negotiation and those that focus on emotion and identity as barriers to the negotiation process.

Cobb, *supra* note 29, at 5-6.

cross-cutting framework involves learning theories and the most appropriate teaching methodology.³⁵

All instruction has some theoretical frameworks and assumptions. Even if instructors do not consciously and explicitly decide to present such perspectives, they effectively choose some perspective. When these decisions are implicit, they reflect what some call the “hidden curriculum.”³⁶ Specific descriptive and prescriptive assumptions involve:

- Whether knowledge has independent existence and/or is socially created³⁷
- The level of stability of the context or social structures surrounding negotiations³⁸
- Whether negotiation is oriented to resolution of immediate disputes, dealing with underlying or protracted conflicts, and/or promoting systemic change³⁹

³⁵ See Scott H Hughes, *Understanding Conflict in a Postmodern World*, 87 MARQ. L. REV. 681 (2004); Douglas H. Yarn & Gregory Todd Jones, *In our Bones (or Brains): Behavioral Biology*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 283 (Andrea K. Schneider & Christopher Honeyman eds., 2006); LeBaron & Patera, *supra* note 10.

³⁶ See LeBaron & Patera, *supra* note 10, at 52.

³⁷ See Kenneth H. Fox, *Negotiation as a Post-Modern Process*, in RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE 13 (Christopher Honeyman et al. eds., 2009).

³⁸ See Jayne Seminare Docherty, *The Unstated Models in our Minds*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 7 (Andrea K. Schneider & Christopher Honeyman eds., 2006).

³⁹ See Kevin Avruch, *The Poverty of Buyer and Seller*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 81 (Andrea K. Schneider & Christopher Honeyman eds., 2006). See generally Peter T. Coleman et al., *Protracted Conflicts as Dynamical Systems*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 61 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Docherty, *supra* note 38; Charles Hauss, *Retraining Ourselves for Conflict Transformation*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 637 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Robert Riciigliano, *A Three-Dimensional Analysis of*

- The extent to which people have independent agency in making their decisions as opposed to being directed or constrained by social forces⁴⁰
- The extent to which people act based on conscious, calculating, and competitive self-interest as opposed to less-conscious and cooperative motivations⁴¹
- The roles of culture, relationships, identity, and emotion in negotiation, and whether they are discrete variables in negotiation that represent potential problems to overcome, or are parts of people's general worldviews⁴²

Negotiation, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 55 (Andrea K. Schneider & Christopher Honeyman eds., 2006); See generally BERNARD MAYER, STAYING WITH CONFLICT: A STRATEGIC APPROACH TO ONGOING DISPUTES (2009).

⁴⁰ See generally Julia Ann Gold, *Cultural Baggage When You "Win as Much as You Can,"* in RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE (Christopher Honeyman et al. eds., 2009); LeBaron & Patera, *supra* note 10.

⁴¹ See Docherty, *supra* note 38; Fox, *supra* note 37; Kenneth H. Fox et al., *Lessons from the Field: First Impressions from Second Generational Negotiations Teaching*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 13 (Christopher Honeyman et al. eds., 2010); Gold, *supra* note 40; LeBaron & Patera, *supra* note 10.

⁴² Abramson, *supra* note 7; Phyllis E. Bernard, *Bringing Soul to International Negotiation*, 25 NEGOTIATION J. 147 (2009) [hereinafter Bernard, *Bringing Soul*]; Phyllis E. Bernard, *Finding Common Ground in the Soil of Culture*, in RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE 29 (Christopher Honeyman et al. eds., 2009) [hereinafter Bernard, *Common Ground*]; Maria R. Volpe & Jack J. Cambria, *Negotiation Nimbleness When Cultural Differences are Unidentified*, in RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE 123 (Christopher Honeyman et al. eds., 2009); Jayne Seminare Docherty, *Culture and Negotiation: Symmetrical Anthropology for Negotiators*, 87 MARQ. L. REV. 711 (2004); Noam Ebner & Adam J. Kamp, *Relationship 2.0* in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 371 (Christopher Honeyman et al. eds., 2010); Fox, *supra* note 37; Fox et al., *supra* note 41; See Bee Chen Goh, *Typical Errors of Westerners*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 293 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Gold, *supra* note

- The role of justice and fairness in negotiation⁴³
- Whether power is conceived as a function of resources, constraints on action, or in other ways⁴⁴
- The extent to which people think of time in terms of linear or other sequences⁴⁵
- Whether explicit communication and direct confrontation are generally desirable.⁴⁶
- When interest-based negotiation can be useful⁴⁷ and whether it is universally applicable.⁴⁸

40; Loretta Kelly, *Indigenous Experiences in Negotiation*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 301 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Melissa Nelken et al., *If I'd Wanted to Teach About Feelings I Wouldn't Have Become a Law Professor*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 357 (Christopher Honeyman et al. eds., 2010); Mario Patera & Ulrike Gamm, *Emotions - A Blind Spot in Negotiation Training?*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 335 (Christopher Honeyman et al. eds., 2010).

⁴³ See Nancy A. Welsh, *Perceptions of Fairness in Negotiation*, 87 MARQ. L. REV. 753 (2004); Cheney Ryan, *Rawls on Negotiating Justice*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 75 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Kimberly A. Wade-Berzoni, *Giving Future Generations a Voice*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 215 (Andrea K. Schneider & Christopher Honeyman eds., 2006).

⁴⁴ See Cobb, *supra* note 29; Jayne Seminare Docherty, *Power in the Social/Political Realm*, 87 MARQ. L. REV. 862 (2004); Christopher Honeyman, *The Physics of Power*, 87 MARQ. L. REV. 872 (2004); Russell Korobkin, *Bargaining Power as a Threat of Impasse*, 87 MARQ. L. REV. 867 (2004); Phyllis E. Bernard, *Power, Powerlessness, and Process*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 257 (Andrea K. Schneider & Christopher Honeyman eds., 2006)

⁴⁵ See Bernard, *Bringing Soul*, *supra* note 42.

⁴⁶ See Gold, *supra* note 40; LeBaron & Patera, *supra* note 10.

⁴⁷ See generally Habib Chamoun-Nicolas et al., *Bazaar Dynamics: Teaching Integrative Negotiation Within a Distributive Environment*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATIONS SERIES 405 (Christopher Honeyman et al. eds., 2010); Jean-François Roberge & Roy J. Lewicki, *Should We Trust Grand Bazaar Carpet Sellers (and Vice Versa)?*, in

- The appropriate goals for negotiation and measures of success, and particularly whether reaching agreement should be a predominant goal.⁴⁹
- What norms are relevant and appropriate in negotiation, e.g., legal, religious, moral, and ethical norms.⁵⁰

B. Topics for Instruction

Most negotiation courses include instruction in a combination of theory and practical skills, though the proportions of each vary depending on the instructional goals and students' needs in each course. Where there are differing philosophies about particular issues, instructors need to decide whether to advocate some philosophies over others (or possibly whether to present only a preferred view), or merely to present the differing views.⁵¹ Ron Fortgang⁵² describes this issue as whether to "proselytize" or use an approach like a "world religions" course. In particular, many negotiation instructors favor interest-based negotiation and disfavor positional negotiation.⁵³ RNT-oriented instructors may advocate certain other perspectives. In general, we recommend that

VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION SERIES 421 (Christopher Honeyman et al. eds., 2010).

⁴⁸ See generally Abramson, *supra* note 7; Gold, *supra* note 40; LeBaron & Patera, *supra* note 10.

⁴⁹ See generally LeBaron & Patera, *supra* note 10; Noam Ebner & Yael Efron, *Moving Up: Positional Bargaining Revisited*, in RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE 251 (Christopher Honeyman et al. eds., 2009).

⁵⁰ See generally Jeffrey R. Seul, *Religion and Conflict*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR (Andrea K. Schneider & Christopher Honeyman eds., 2006); Abramson, *supra* note 7; Fox et al., *supra* note 41.

⁵¹ See generally Peter S. Adler, *Protean Negotiation*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 17 (Andrea K. Schneider & Christopher Honeyman eds., 2006).

⁵² See Fortgang, *supra* note 1.

⁵³ See generally Ebner & Efron, *supra* note 49.

instructors provide accurate, realistic, and respectful portrayals of various approaches, including advantages and disadvantages. Instructors should prepare students for negotiations that they are likely to encounter in real-life practice. This not only includes respectful treatment of positional negotiation but also “ordinary legal negotiation” in which lawyers exchange information to work out what they consider to be an appropriate result primarily based on the norms in their legal practice community.⁵⁴ Presenting a realistic portrait of negotiation need not preclude instructors from advocating their preferred views about contested issues while encouraging students’ to develop their own views.

Good instructional design requires balancing the depth and breadth of coverage of particular issues. On one extreme, instructors may try to cover such a wide range of issues that students do not learn or retain much knowledge. On the other extreme, instructors may focus on a few issues or perspectives in such depth that students do not learn enough different subjects or perspectives. In general, instructors should strive to find a happy medium in their courses.

Almost inevitably, instructors will cover some topics that are not in the standard canon, which should include matters that best advance the instructional goals in their particular courses. Some of these topics may be embedded in the canon, but may deserve their own listing in the syllabus. These topics might include:

- when negotiation is or is not appropriate;⁵⁵

⁵⁴ See John Lande, *Teaching Students to Negotiate Like a Lawyer*, 39 WASH. U.J.L. & POL’Y 109 (2012).

⁵⁵ See generally Gabriella Blum & Robert H. Mnookin, *When Not to Negotiate*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 101 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Susan K. Morash, *Nonevents and Avoiding Reality*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 121 (Andrea K. Schneider & Christopher Honeyman eds., 2006); ROBERT MNOOKIN, *BARGAINING WITH THE DEVIL: WHEN TO NEGOTIATE, WHEN TO FIGHT* (2010); Lisa Blomgren Bingham, *Avoiding Negotiating: Strategy and Practice*, in THE

- how to get others to agree to negotiate⁵⁶
- procedures that can improve or complement negotiation⁵⁷
- effect of parties' abilities and disabilities⁵⁸
- communication patterns⁵⁹
- effect of participation of agents in negotiation (such as tensions in lawyer-client relationships)⁶⁰

NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 113 (Andrea K. Schneider & Christopher Honeyman eds., 2006).

⁵⁶ See Alexander Hawkins et al., *Negotiating Access*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 133 (Andrea K. Schneider & Christopher Honeyman eds., 2006); I. William Zartman, *Timing and Ripeness*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 143 (Andrea K. Schneider & Christopher Honeyman eds., 2006).

⁵⁷ See generally Jennifer G. Brown et al., *Negotiation as One Among Many Tools*, 87 MARQ. L. REV. 853 (2004); Bernard Mayer, *Allies in Negotiation*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 603 (Andrea K. Schneider & Christopher Honeyman eds., 2006).

⁵⁸ See Elizabeth L. Jeglic & Alexander A. Jeglic, *Negotiating with Disordered People*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 335 (Andrea K. Schneider & Christopher Honeyman eds., 2006); David A. Larson, *Adventure Learning: Not Everyone Gets to Play*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 201 (Christopher Honeyman et al. eds., 2010).

⁵⁹ See Deborah M. Kolb, *Strategic Moves and Turns*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 401 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Linda L. Putnam, *Communication and Interaction Process*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 385 (Andrea K. Schneider & Christopher Honeyman eds., 2006).

⁶⁰ See Marcia C. Campbell & Jayne S. Docherty, *What's in a Frame? (That Which We Call a Rose by Any Other Name Would Smell as Sweet)*, 87 MARQ. L. REV. 769 (2004). See generally ROBERT H. MNOOKIN ET AL., BEYOND WINNING: NEGOTIATING TO CREATE VALUE IN DEALS AND DISPUTES (2000); Wayne Brazil, *Professionalism and Misguided Negotiation*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 697 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Jacqueline Nolan-Haley, *Agents and Informed Consent*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 505 (Andrea K. Schneider &

- planned early negotiation such as Collaborative, Cooperative, and Settlement Counsel processes⁶¹
- two-level negotiation (i.e., negotiation both within and between negotiation teams)⁶²
- timing and rhythm in negotiation⁶³
- aspirations⁶⁴
- gender issues⁶⁵

Christopher Honeyman eds., 2006); Julie Macfarlane, *The New Advocacy*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 513 (Andrea K. Schneider & Christopher Honeyman eds., 2006); JULIE MACFARLANE, *THE NEW LAWYER: HOW SETTLEMENT IS TRANSFORMING THE PRACTICE OF LAW* (2008); JOHN LANDE, *LAWYERING WITH PLANNED EARLY NEGOTIATION: HOW YOU CAN GET GOOD RESULTS FOR CLIENTS AND MAKE MONEY* (2011).

⁶¹ See LANDE, *supra* note 60.

⁶² See Fortgang, *supra* note 1; David Sally & Kathleen O'Connor, *Team Negotiations*, 87 MARQ. L. REV. 883 (2004); H.S. Bellman, *Internal Conflicts of the Team*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATION 561 (Andrea K. Schneider & C. Honeyman eds., 2006); David Matz, *Intra-team Miscommunication*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATION 555 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Christopher Honeyman et al., *A Game of Negotiation: The "Deliberation Engine"*, in EDUCATING NEGOTIATORS FOR A CONNECTED WORLD: VOLUME 4 IN THE RETHINKING NEGOTIATION TEACHING SERIES (Christopher Honeyman et al. eds.) (forthcoming 2012).

⁶³ See Ricigliano, *supra* note 39; I. William Zartman, *Process and Stages*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR (Andrea K. Schneider & Christopher Honeyman eds., 2006); Zartman, *supra* note 56.

⁶⁴ See Andrea K. Schneider, *Aspirations in Negotiation*, 87 MARQ. L. REV. 675 (2004); Chris Guthrie & David F. Sally, *Miswanting*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 277 (Andrea K. Schneider & Christopher Honeyman eds., 2006).

⁶⁵ See Deborah M. Kolb & Linda Putnam, *Gender is More than Who We Are*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 315 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Catherine H. Tinsley et al., *Women at the Bargaining Table: Pitfalls and Prospects*, 25 NEGOTIATION J. 233 (2009); Catherine H. Tinsley et al., *Negotiating Your Public Identity: Women's Path to Power*, in RETHINKING

- how identity issues affect negotiation⁶⁶
- emotions⁶⁷
- partisan perceptual biases⁶⁸
- prosocial preferences⁶⁹
- ceremony, generosity, and developing rapport;⁷⁰
- curiosity and creativity;⁷¹

NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE 71 (Christopher Honeyman et al. eds., 2009); Andrea K. Schneider et al., *What Travels: Teaching Gender in Cross-Cultural Negotiation Classrooms*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 319 (Christopher Honeyman et al. eds., 2010).

⁶⁶ See Daniel L. Shapiro, *Identity is More Than Meets the "I": The Power of Identity in Shaping Negotiation Behavior*, 87 MARQ. L. REV. 809 (2004).

⁶⁷ Daniel L. Shapiro, *Emotions in Negotiation: Peril or Promise?*, 87 MARQ. L. REV. 737 (2004); Nelken, *supra* note 42; Patera & Gamm, *supra* note 42; Habib Chamoun-Nicolas & Randy Hazlett, *Influence of Emotion in Negotiation: A Game Theory Framework*, in EDUCATING NEGOTIATORS FOR A CONNECTED WORLD: VOLUME 4 IN THE RETHINKING NEGOTIATION TEACHING SERIES (Christopher Honeyman et al. eds.) (forthcoming 2012).

⁶⁸ See Jennifer Gerarda Brown, *Addressing Partisan Perceptions*, in RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE 115 (Christopher Honeyman et al. eds., 2009).

⁶⁹ See David Sally, *Game Theory Behaves*, 87 MARQ. L. REV. 783 (2004); Wade-Benzoni, *supra* note 43.

⁷⁰ See Gerald R. Williams, *Negotiation as a Healing Process*, J. DISP. RESOL. 1 (1996); Janice Nadler, *Rapport in Negotiation and Conflict Resolution*, 87 MARQ. L. REV. 875, 882 (2004); Bernard, *Bringing Soul*, *supra* note 42; Bernard, *Common Ground*, *supra* note 42; Habib Chamoun & Randy Hazlett, *The Psychology of Giving and Its Effect on Negotiation*, in RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE 151 (Christopher Honeyman et al. eds., 2009); Bernard, *supra* note 11; Lela P. Love & Sukhsimranjit Singh, *On Generosity (and Other Religion-Based and Life-Tested Theories)*, in EDUCATING NEGOTIATORS FOR A CONNECTED WORLD: VOLUME 4 IN THE RETHINKING NEGOTIATION TEACHING SERIES (Christopher Honeyman et al. eds.) (forthcoming 2012); Christopher Honeyman et al., *The Education of Non-Students*, in EDUCATING NEGOTIATORS FOR A CONNECTED WORLD: VOLUME 4 IN THE RETHINKING NEGOTIATION TEACHING SERIES (Christopher Honeyman et al. eds.) (forthcoming 2012).

⁷¹ See Jennifer G. Brown, *Creativity and Problem – Solving*, 87 MARQ. L. REV. 697 (2004); Michelle LeBaron & Christopher Honeyman, *Using the Creative Arts*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE

- framing of issues and use of metaphors⁷²
- the role of information and learning before and during negotiation⁷³
- mindfulness, perceptions, heuristics, neuroscience, persuasion, and other psychological issues⁷⁴

EXPERIENCED NEGOTIATOR 415 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Chris Guthrie, *I'm Curious: Can We Teach Curiosity?*, in RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE 63 (Christopher Honeyman et al. eds., 2009); Nadja Alexander & Michelle LeBaron, *Dancing to the Rhythm of Role-Play: Applying Dance Intelligence to Conflict Resolution*, 33 HAMLIN J. PUB. L. & POL'Y 327 (2012).

⁷² Campbell & Docherty, *supra* note 60; Jayne Seminare Docherty, *Narratives, Metaphors, and Negotiation*, 87 MARQ. L. REV. 847, 851(2004); Howard Gadlin et al., *The Road to Hell is Paved with Metaphors*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 29 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Gale Miller & Robert Dingwall, *When the Play's in the Wrong Theatre*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 47 (Andrea K. Schneider & Christopher Honeyman eds., 2006).

⁷³ See Moffitt & Peppet, *supra* note 8; Stuart M. Kirschner, *Training a Captive Audience*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 627 (Andrea K. Schneider & Christopher Honeyman eds., 2006); David Sally, *Social Maneuvers and Theory of Mind*, 87 MARQ. L. REV. 893 (2004)

⁷⁴ See Chris Guthrie, *Principles of Influence in Negotiation*, 87 MARQ. L. REV. 829 (2004); Chris Guthrie & David Sally, *The Impact of Impact Bias on Negotiation*, 87 MARQ. L. REV. 817 (2004); Russell Korobkin & Chris Guthrie, *Heuristics and Biases at the Negotiation Table*, 87 MARQ. L. REV. 785 (2004); Sally, *supra* note 69; David Sally, *Social Maneuvers and Theory of Mind*, 87 MARQ. L. REV. 893 (2004); Morton Deutsch, *Internal and External Conflict*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 231 (Andrea K. Schneider & Christopher Honeyman, 2006); Sheila Heen & Douglas Stone, *Perceptions and Stories*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 343 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Leonard L. Riskin, *Knowing Yourself: Mindfulness*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 239 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Donna Shestowsky, *Psychology and Persuasion*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 361 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Clark Freshman & Chris Guthrie, *Managing the Goal-Setting*

- risk, decision analysis, uncertainty, and ambiguity⁷⁵
- trust⁷⁶
- effect of reputations⁷⁷
- apology and forgiveness⁷⁸
- negotiation by email or other electronic means⁷⁹
- use of experts, interpreters, mediators, and other professionals⁸⁰

Paradox: How to Get Better Results from High Goals and be Happy, 25 NEGOTIATION J. 217, 231 (2009); LeBaron and Patera, *supra* note 10; Richard Birke, *Neuroscience and Settlement: An Examination of Scientific Innovations and Practical Applications*, 25 OHIO ST. J. ON DISP. RESOL. 477 (2010); Fox et al., *supra* note 41.

⁷⁵ See David P. Hoffer, *Decision Analysis as a Mediator's Tool*, 1 HARV. NEGOT. L. REV. 113 (1996); Jeffery M. Senger, *Decision Analysis in Negotiation*, 87 MARQ. L. REV. 723 (2004); Michael Moffitt, *Contingent Agreements: Agreeing to Disagree about the Future*, 87 MARQ. L. REV. 691 (2004); Christopher Honeyman, *Using Ambiguity*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 461 (Andrea K. Schneider & Christopher Honeyman eds., 2006).

⁷⁶ See generally Honeyman, *supra* note 5; Roberge & Lewicki, *supra* note 47.

⁷⁷ See generally Catherine H. Tinsley et al., *Reputations in Negotiation*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 203 (Andrea K. Schneider & Christopher Honeyman eds., 2006).

⁷⁸ See Jennifer G. Brown, *The Role of Apology in Negotiation*, 87 MARQ. L. REV. 665 (2004); Ellen Waldman & Frederic Luskin, *Unforgiven: Anger and Forgiveness*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 435 (Andrea K. Schneider & Christopher Honeyman eds., 2006).

⁷⁹ See generally Anita D. Bhappu & Zoe I. Barsness, *Risks of E-mail*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 395 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Noam Ebner et al., *You've Got Agreement: Negoti@ting Via Email*, in RETHINKING NEGOTIATION TEACHING: INNOVATIONS FOR CONTEXT AND CULTURE 89 (Christopher Honeyman et al. eds., 2009); David Matz & Noam Ebner, *Using Role-Play in Online Negotiation Teaching*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 293 (Christopher Honeyman et al. eds., 2010).

⁸⁰ See generally Harold I. Abramson, *The Culturally Suitable Mediator*, in THE NEGOTIATOR'S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 591 (Andrea K. Schneider & Christopher Honeyman eds., 2006);

- overcoming apparent impasse and using “negotiation nimbleness”⁸¹
- dealing with negotiators’ constituencies⁸²
- wicked problems (i.e., some problems that are unique, complex, and ill-defined).⁸³

Sanda Kaufman, *The Interpreter as Intervener*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 535 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Christopher Honeyman, *Understanding Mediators*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 581 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Lela P. Love & Joseph B. Stulberg, *The Uses of Mediation*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 573 (Andrea K. Schneider & Christopher Honeyman eds., 2006); John H. Wade, *Dueling Experts*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 523 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Lande, *supra* note 60.

⁸¹ See John H. Wade, *Crossing the Last Gap*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 467 (Andrea K. Schneider & Christopher Honeyman eds., 2006); John H. Wade & Christopher Honeyman, *A Lasting Agreement*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 485 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Volpe & Cambria, *supra* note 42.

⁸² See John H. Wade, *Bargaining in the Shadow of the Tribe*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 475 (Andrea K. Schneider & Christopher Honeyman eds., 2006).

⁸³ See Leonard L. Lira, *The Military Learns to Negotiate*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 675 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Paul J. Taylor & William Donohue, *Hostage Negotiation Opens Up*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 667 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Maria Volpe et al., *Negotiating with the Unknown*, in THE NEGOTIATOR’S FIELDBOOK: THE DESK REFERENCE FOR THE EXPERIENCED NEGOTIATOR 657 (Andrea K. Schneider & Christopher Honeyman eds., 2006); Calvin Chrustie et al., *Negotiating Wicked Problems: Five Stories*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 449 (Christopher Honeyman et al. eds., 2010); Jayne Seminare Docherty, *“Adaptive” Negotiation: Practice and Teaching*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 481 (Christopher Honeyman et al. eds., 2010); Honeyman & Coben, *supra* note 3; Leonard Lira, *Design: The U.S.*

The conflicts and settings that instructors address in a course convey important information to students.⁸⁴ To a large extent, these decisions follow naturally from the disciplinary setting as instructors are likely to choose examples that seem particularly relevant to their students. Even so, there are significant variations within disciplines, so that law school instructors may choose between negotiations of disputes or transactions, various types of cases (e.g., contract, tort or family), and cases involving varying degrees of salient legal issues. Similarly, international relations instructors may focus on negotiation in diplomatic relations, treaty negotiation, crisis intervention, and/or trade disputes. An important and hoped-for development is the pending introduction, using a sophisticated Internet-based platform, of practical tools to create *multidisciplinary* student teams. These will have the edifying experience of negotiating within a (generally multinational) team as well as with their opposite-number team, in simulations that will draw their problem sets from all disciplines represented.⁸⁵

C. Teaching Methods and Related Issues

Instructors should consider what roles are most appropriate for themselves and the students. Instructors may be in the role of an expert or a “co-learner” with the students or some combination.⁸⁶ A

Army's Approach to Negotiating Wicked Problems, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 511 (Christopher Honeyman et al. eds., 2010); Jayne Seminare Docherty & Leonard Lira, *Adapting to the Adaptive: How Can We Teach Negotiation for Wicked Problems?*, in EDUCATING NEGOTIATORS FOR A CONNECTED WORLD: VOLUME 4 IN THE RETHINKING NEGOTIATION TEACHING SERIES (Christopher Honeyman et al. eds.) (forthcoming 2012).

⁸⁴ See Abramson, *supra* note 7.

⁸⁵ Honeyman et al., *supra* note 62.

⁸⁶ See LeBaron & Patera, *supra* note 10; Nelken et al., *supra* note 7; Habib Chamoun-Nicolas et al., *Bringing the Street to the Classroom and the Student to the Street: Guided Forays Into Street-Wise Negotiations*, in EDUCATING NEGOTIATORS FOR A CONNECTED WORLD: VOLUME 4 IN THE RETHINKING NEGOTIATION TEACHING SERIES (Christopher Honeyman et al. eds.) (forthcoming 2012).

related issue is the extent to which instructors present planned material and/or elicit students' learning of whatever actually occurs in the class.⁸⁷

Negotiation courses vary in the types of activities involved. These may include case simulations, real-life negotiation (as a participant or observer) or similar activities, dance, movement, and exercise, among others.⁸⁸ Activities vary in whether they are designed to teach one or more points.⁸⁹ Instructors may organize different activities to be done by the entire class together, in small groups, and/or by individual students. Thoughtful planning of logistics of activities is important, especially for adventurous activities that have critical aspects beyond the instructors' control,⁹⁰ online simulations,⁹¹ and also for more traditional activities like face-to-face simulations.⁹² Debriefing is critically important because students are not likely to fully appreciate the significance of their experiences without careful reflection.⁹³

Written assignments may include journals, self-assessment tools, academic papers, creation of simulations, creative works like

⁸⁷ See Fox et al., *supra* note 41.

⁸⁸ See Alexander & LeBaron, *Dancing to the Rhythm of the Role-Play, Applying Dance Intelligence to Conflict Resolution*, 33 HAMLIN J. PUB. L. & POL'Y 327 (2012); LeBaron & Patera, *supra* note 10; Ransie Howell & Lynn P. Cohn, *Epilogue: Two to Tango*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 529 (Christopher Honeyman et al. eds., 2010); Christopher Honeyman & Rachel Parish, *Make a Move*, in MAKING MOVEMENT MATTER: CONFLICT, DANCE AND NEUROSCIENCE (Michelle LeBaron et al. eds.) (forthcoming 2013).

⁸⁹ See Fox et al., *supra* note 41.

⁹⁰ James R. Coben et al., *Straight Off the Deep End in Adventure Learning*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 109 (Christopher Honeyman et al. eds., 2010); Larson, *supra* note 58; Panga and Grecia-de Vera, *supra* note 18.

⁹¹ Ebner et al., *supra* note 79; Matz & Ebner, *supra* note 79; Honeyman et al., *supra* note 62.

⁹² See Alexander & LeBaron, *supra* note 8; Ebner & Kovach, *supra* note 20.

⁹³ See generally Ellen Deason et al., *Debriefing the Debrief*, in ASSESSING OUR STUDENTS, ASSESSING OURSELVES: VOLUME 3 IN THE RETHINKING NEGOTIATION TEACHING SERIES (Noam Ebner et al. eds., 2012).

plays or short stories reflecting negotiation insights, and exams.⁹⁴ The dizzying array of teaching topics and methods creates significant challenges in giving students appropriate evaluations; volume four in the RNT series contains eighteen chapters on this subject alone.⁹⁵

Many instructors consider that students' systematic instruction is completed at the end of the course, though courses produce greater value if they provide guidance for students to continue learning and practicing key skills.⁹⁶ Moreover, the instructors' own learning should not end when a course is over as they should conduct evaluations to identify what worked well and what might be improved in future courses.⁹⁷

IV. Conclusion

The RNT project makes a major contribution to teaching of negotiation and dispute resolution more generally. It embodies an adventurous spirit of questioning accepted beliefs and even its own theories and assumptions. Rather than confidently asserting dogmatic positions, it promotes experimentation and continuous innovation. Although it is impossible to know the specific effects of this work, there should be no doubt that the RNT project will lead to substantial improvements in teaching and learning of negotiation around the world. We believe that there is substantial value in maintaining a general canon of negotiation while incorporating instruction of a wide range of additional perspectives, topics, and teaching methods. We hope that the RNT project will help the community of negotiation instructors refine and possibly expand the canon to some extent.

⁹⁴ See Fortgang, *supra* note 1.

⁹⁵ See EDUCATING NEGOTIATORS FOR A CONNECTED WORLD: VOLUME 4 IN THE RETHINKING NEGOTIATION TEACHING SERIES (Christopher Honeyman et al. eds.) (forthcoming 2012)

⁹⁶ See Bhappu et al., *supra* note 14; Cohn et al., *supra* note 7; LeBaron & Patera, *supra* note 10; LANDE, *supra* note 60.

⁹⁷ See Abramson, *supra* note 7; Cohn et al., *supra* note 7.

The terms Negotiation “1.0” and “2.0” reflect the infectious spirit of innovation in RNT. While there may have been some developmental value in the 1.0/2.0 terminology, continued usage may be confusing as these terms do not have clear, shared, and helpful meanings. This framework oversimplifies the characterization of various instructional approaches into two discrete and uniform models. Obviously, there is variation in both models. Courses that some might consider as “1.0” actually embody some “2.0” features and presumably some “2.0” courses include “1.0” features. Rather than choosing between two coherent models, instructors face a profusion of difficult choices in theoretical frameworks, topics, and teaching methods, as this article demonstrates. Moreover, this terminology implies that “1.0” is inherently inferior and “2.0” is superior when, in fact, there are valuable and problematic aspects of both “models.” In particular, there is real benefit to teaching a shared canon and it would be unwise to throw out valuable parts of the “1.0” baby with the bathwater of problematic elements of some instruction.⁹⁸ It may be particularly important to retain important elements of “1.0” for negotiation principals and professionals in settings with poorly developed negotiation cultures⁹⁹ while also incorporating important elements of negotiation cultures that do exist.¹⁰⁰ Although it may not make sense to continue using this terminology, the RNT project has stimulated productive reflection and concrete ideas about how best to advance negotiation teaching, as this article demonstrates.

⁹⁸ Howard Gadlin et al., *Of Babies and Bathwater*, in EDUCATING NEGOTIATORS FOR A CONNECTED WORLD: VOLUME 4 IN THE RETHINKING NEGOTIATION TEACHING SERIES (Christopher Honeyman et al. eds.) (forthcoming 2012).

⁹⁹ Gwen B. Grecia-de Vera, *Can we Engineer Comprehensiveness in "Negotiation" Education?*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION SERIES 77 (Christopher Honeyman et al. eds., 2010).

¹⁰⁰ Andrew Wei-Min Lee, *Ancient Wisdom for the Modern Negotiator: What Chinese Characters Have to Offer Negotiation Pedagogy*, in VENTURING BEYOND THE CLASSROOM: VOLUME 2 IN THE RETHINKING NEGOTIATION TEACHING SERIES 93 (Christopher Honeyman et al. eds., 2010).