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# A Readable, Practical, Rigorous Book on Negotiation

*John S. Hammond*

**Deepak Malhotra and Max H. Bazerman.** *Negotiation Genius: How to Overcome Obstacles and Achieve Brilliant Results at the Bargaining Table and Beyond.* New York: Bantam Dell, 2007. 336 pages. \$26.00 (hardcover) ISBN: 9780553804881.

## Introduction

Let me put my cards on the table. I am an “old salt,” a *really* old salt, who spends his days helping executives in the field analyze and plan for major negotiations, and teaching them to negotiate more effectively. I am constantly alert for sound, practical advice that will help my clients succeed, for books that give me new insights into what I have been doing for years, and for books that I can suggest to clients.

Thirty-five years ago, flying nearly blind, I developed the first MBA elective on negotiation at the Harvard Business School. The field had little academic heritage to draw on then — you could pretty much count the number of truly relevant research works on your fingers and toes. The popular negotiation books such as Gerard Nierenberg’s *Art of Negotiating* (1968) or Robert Ringer’s cynical *Winning through Intimidation* (1974) were based on “experience.” Chester Karrass’s *The Negotiating Game* (1970), while drawing a bit on his doctoral thesis (one of the earliest negotiation laboratory experiments), was based largely on his career as a purchasing agent. While often short on rigor, the good news was that these books were accessible to most executives: you could pick them up and read them.

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We have come along way since. *Getting to Yes* arrived on the scene in 1981 (Fisher and Ury 1981), and over the next twenty-five years, thousands of research papers and hundreds of books followed, and the rigor has increased dramatically.

Negotiation research has flowed in two streams: analytic and psychological/behavioral. The analytic is typified by Howard Raiffa's *The Art and Science of Negotiation* (1982); Howard Raiffa, John Richardson, and David Metcalfe's *Negotiation Analysis* (2002); and David Lax and James Sebenius's *The Manager as Negotiator* (1986) and their more recent work *3-D Negotiation* (2006). The behavioral stream is typified by Margaret Neale and Max Bazerman's *Cognition and Rationality in Negotiation* (1991) and by Bazerman and Neale's *Negotiating Rationally* (1992).

What was originally just an art form has become an art supplemented significantly by some excellent science. Sadly, however, most of the research and most rigorous books are written in a style not easily accessible to executives, professionals, and other practitioners. I once assigned Lax and Sebenius's wonderful *The Manager as Negotiator* to bankers at a short executive seminar, and they balked. Much harder to read, they complained, compared to *Getting to Yes* (Fisher and Ury 1981) or *Getting Past No* (Ury 1991).

Executives and other professionals are plenty smart, but unfortunately they are also very busy. They want to learn from books that can be read, not studied. And just as they would prefer to be treated by a doctor who practices evidence-based medicine, so would they like rigorous, well-thought-out advice on how to negotiate. But they care little for abstract or academic concepts unless clear connections are made to the real world, powered by concrete examples that they can relate to. Only a small number of books over the past twenty-five years fill that bill.

## **A Readable Addition to the Canon**

Deepak Malhotra and Max Bazerman's *Negotiation Genius* is one of them. It draws heavily on the psychological/behavioral stream of research and offers a nice balance of the readable, the rigorous, and the practical, attractive not only to executives but also to academics. Malhotra and Bazerman, professors at the Harvard Business School, draw on their own teaching and research, as well as their corporate consulting experience. Malhotra's research has focused on negotiation, particularly trust, competitive arousal, and resolving international ethnic conflict. Bazerman is a prolific researcher and author on managerial judgment and its implications for decision making and negotiation.

They have done a fine job of pulling together some of the best of the conceptual frameworks and relevant research results to date, presenting them convincingly, discussing the implications, and, most important, offering advantageous strategies that incorporate this knowledge. In some

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instances, they get right down to sample scripts or dialogue one could use right away. In addition, they include dozens of real-world examples that ground their advice, varying from large, complex negotiations — such as the Cuban Missile Crisis or the 2004 National Hockey League strike — to simpler ones, such as how to defuse a potential altercation in a pool hall or persuade an off-duty cab driver to drive you home on a cold winter night.

Some of the research, and even some of the examples, particularly on cognitive biases, has appeared in other negotiation books, including the books by Bazerman and Neale and also Bazerman's *Judgment in Managerial Decision Making* (2005). What is important is that Malhotra and Bazerman have organized the material — new and old — and presented it in a manner that gives fresh insight and enables development of even better negotiation strategies. For example, they do readers a major service by devoting a chapter to information gathering, having it early in the book, and calling it “Investigative Negotiation.”

For readers, some of the insight emerges from the authors' ability to turn a good, insightful phrase. For example, in the chapter on what they call investigative negotiation, they set the tone with this statement: “Investigative negotiation is both a mind-set and a methodology. Investigative negotiators approach negotiations the same way a detective might approach a crime scene: the goal is to learn as much as possible about the situation and the people involved” (p. 84). If anyone ever publishes a book called *Great Quotes about Negotiation*, many of the quotes will be from this book.

The book is organized into three parts. The first two (three chapters each) lay the foundation for the book. “The Negotiator's Toolkit” discusses how to claim and create value and offers techniques for information gathering. “The Psychology of Negotiation” covers cognitive biases and their implications for how to negotiate. The last half of the book, “Negotiating in the Real World,” contains eight self-contained chapters:

- “Strategies of Influence,”
- “Blind Spots in Negotiation,”
- “Confronting Lies and Deception,”
- “Recognizing and Resolving Ethical Dilemmas,”
- “Negotiating from a Position of Weakness,”
- “When Negotiations Get Ugly: Dealing with Irrationality, Distrust, Anger, Threats, and Ego,”
- “When *Not* to Negotiate,” and
- “The Path to Genius.”

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The book includes a nice six-page glossary of negotiation terms at the end, but no index. The endnotes are revealing. When you remove references to magazine and newspaper articles that are the basis of some of their examples, almost everything else is from academic journals, such as *Management Science*, the *Journal of Personality and Social Psychology*, and *Econometrics*, and from academic books. These are hardly the places that executives and practitioners would go for advice — the authors have thus done us practitioners a great service in bridging the gap between science and practice.

We are lured into *Negotiation Genius* through the door of four negotiation vignettes, each posing a real, but seemingly intractable negotiation situation. In each case, the “negotiation genius” intervenes and saves the day, but we are not told how, and are tantalized to read on.

For example, after describing an impasse over exclusivity in a small-supplier/large-customer multimillion-dollar negotiation, the Fortune 500 customer’s resident negotiation genius (here he is named “Chris”) enters. He flies to Europe to meet with the supplier. “In a matter of minutes, Chris was able to structure a deal that both parties immediately accepted. He made no substantive concessions, nor did he threaten the small firm. How did Chris manage to save the day? We will revisit this story in Chapter 3” (p. 2). Who can resist reading on?

### ***Claiming Value***

The chapter on claiming value focuses on single-issue negotiating. It discusses the anchoring concept, setting high aspirations, and carefully assessing the Zone of Possible Agreement. (Richard Shell calls this the bargaining zone, while Leigh Thompson calls it the bargaining range [Shell 2006; Thompson 2004]. As many claiming tactics involve creating impressions, perhaps misleading ones, that will change the other side’s view of the situation, Malhotra and Bazerman suggest listening carefully to what the other side is saying: distinguish between information (substantive facts that could bear on the situation) and influence (words designed simply to influence your perceptions and your counteroffer).

They offer several tactics to reduce one’s vulnerability to the anchoring impact of the other party’s offer. For instance, instead of simply making an immediate counteroffer, as many suggest, make an aggressive counteroffer, followed immediately by an appeal for moderation, then turn attention to your offer by justifying it. A potential script: “Well, based on your offer, which was unexpected, it looks like we have a *lot* of work ahead of us. From our perspective, a fair price would be closer to \$X [your counteranchor]. I will explain to you how *we* are valuing this deal, but it appears to me that if we are to reach any agreement, we will both have to work together to make it happen” (p. 33).

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Most people see an either-or choice between getting a good deal and preserving a good relationship. Malhotra and Bazerman urge that the goal should be “to get the best deal while *strengthening* the relationship and your reputation” (p. 37). In that spirit, they offer some good ideas on how to respond to an offer that is much better than you hoped, an “offer you love” (p. 46). For example, they suggest encouraging the other party to think he or she negotiated well by taking time to ponder the offer, accepting the offer without enthusiasm, or making a counteroffer that you expect they will accept. But they caution “*if you are surprised by an offer, don’t celebrate — think!*” (p. 48).

While setting high aspirations improves performance, people with high aspirations will end up being disappointed more often because they are less likely to achieve their ambitious goals. Malhotra and Bazerman’s remedy: compare your performance with your target during the negotiation. Afterward, evaluate your performance compared to your reservation price.

### ***Creating Value***

Their advice for how to create value is standard: identify interests, conduct logrolling, add issues, use contingency contracts, negotiate packages, conduct post-settlement settlements, and so on. But they turn some nice phrases that offer additional insight and underscore the importance of creating value.

They distinguish between win-win solutions (built by compromising issue by issue) and those that maximize total value. They write that “negotiation often *entails* compromise, but it is not about compromise” (p. 63) and that “our goal here is not simply to help you reach agreements that both parties *consider* to be ‘win-win;’ our goal is to help you maximize value” (pp. 63–64).

They stress the importance of value creation with nice phrases such as “. . . creating value is not just what a ‘nice’ negotiator does when she cares about the other side. It’s what a negotiation genius will do categorically” (p. 61); “A good negotiator will do whatever it takes to close the deal, while a negotiation genius will do whatever it takes to maximize value in the deal” (pp. 62–63); and “Remember: to *take* what is there, you must work with the other side to *make* what is there” (p. 82). How do you know whether you have created all the value possible? Of course, there is no definitive answer, but a good test is, “If you leave the negotiation table without knowing very much about their interests and priorities, you probably have left value on the table” (p. 66).

### ***Investigate***

As mentioned, Malhotra and Bazerman stress that a commitment to search for good information is a mindset that they call investigative negotiation. The search is relentless, beginning before the negotiation and continuing throughout.

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Not surprisingly, they press for drilling down to interests by asking “why?” about positions. “[T]oo much focus on *what* people want detracts your attention from discovering *why* they want it” (p. 85). But they also add the “why not?” question. “[N]egotiations should never end with a ‘no.’ Instead, they should either end with a ‘yes’ or with an explanation as to ‘why not.’ ” (p. 94) and “Investigative negotiators understand that ‘why not’ is often as important a questions as ‘why’ ” (p. 94).

The authors view every interchange in the negotiation itself as a chance to learn. “Typically,” they write, “when facing demands from the other party, negotiators adopt a defensive posture: ‘How can I avoid accepting this demand?’ Investigative negotiators confront demands the same way they confront any other statement from the other party: ‘What can I learn from this demand?’ ” (p. 90).

### ***Understand Why All Parties Behave the Way They Do***

About one-third of the book focuses on cognitive and motivational biases (which Malhotra and Bazerman call biases of the mind and heart, respectively), the psychology of influence, and bounded awareness. They explain the impact of each on negotiation behavior and, more important, offer sound ways of working around, compensating for, or limiting the impact of these biases and for incorporating them into strategy, and they do so better than any book published to date.

For dealing with motivational biases, they suggest thinking in advance about the conflict between what you *want* to do and what you *should* do. While most believe that the self who does what it should is more trustworthy, they point out that you ignore your wants at your peril. Whereas failure to control your wanting self can result in shortsighted behavior, ignoring your wants may mask important signals about underlying needs. The solution: think this through in advance. Often you can predict when impulsive demands arising from your wants might interfere with a negotiation and plan accordingly. For example, set a maximum price before you enter an auction or hand the negotiation over to someone less emotionally involved.

Furthermore, the authors observe that we are more vulnerable to biases when we use “System 1” thinking, which corresponds to intuition. It is typically fast, automatic, effortless, implicit, and emotional, and the way we make most of our decisions. In contrast, “System 2” thinking, which corresponds to reasoned thought, “is slower, conscious, effortful, explicit, and logical. . . . [B]usy professionals are more likely to rely on System 1 thinking most of the time — and more often than they should” (p. 141). Their advice: use System 2 thinking on your most important negotiations and decisions. As System 2 thinking is more time intensive, plan ahead to select upcoming negotiations that warrant that sort of effort. Where possible, avoid negotiating under time pressure and schedule important negotiations across multiple sessions to give each side an opportunity to think.

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They offer clever strategies for utilizing the psychology of influence, such as parceling out good news over time in small bites while giving bad news all at once, and good strategies for defending against being influenced, such as separating influence from information and appointing a devil's advocate. But they wisely warn against overreliance on influence strategies. While such strategies can help you sell to and persuade the other side, they do nothing to improve your proposal. Furthermore, when you are "selling," you are less likely to be listening and learning about the other side. Thus, while influence techniques are an important tool, they are not a substitute for real negotiation.

Bounded awareness refers to the tendency of negotiators to focus narrowly on the decisions they must make and ignore available and often highly relevant information that may be outside the scope of their narrow focus. Malhotra and Bazerman evocatively call this "Blind Spots in Negotiation." Often missed are:

- "the role of parties that are not at the bargaining table;
- the ways in which other parties are likely to make decisions;
- the role of information asymmetries;
- the strength of competitors; and
- information that is not immediately relevant but which will be critical in the future" (p. 179).

A good example is when the strength of the competition is in your blind spot. "[P]eople are much more willing to bet on their likelihood of winning a competition against others when they are asked to perform a familiar or objectively easy task than when they are asked to perform an objectively difficult task. Of course, what people often fail to realize is that if the task is easy for you, it is likely to be easy for your competitor as well; the same is true for difficult tasks" (p. 189). The antidote: explicitly think of the capabilities of your competitors one by one by one.

### ***Confronting Lies and Deceptions***

They authors point out that deception is much more prevalent than lying. "[M]ost people do not like to lie, but they are usually very comfortable with you being deceived" (p. 206). For example, if your question is, "Is this really the lowest price at which you can sell this component to us?" the supplier might answer, "[T]his is the lowest price at which we have ever sold this component" (p. 206). Of course, this sounds like an answer to your question, but it is not. It is intended to make you believe that the seller *cannot* sell it any cheaper, but tells you only that she has not.

Among the counters: "Negotiation geniuses ask clear, focused questions . . . people are more likely to deceive indirectly than to explicitly lie,

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negotiation geniuses who listen carefully to the answers provided (and to the answers that are *not* provided) are in a great position to catch ‘non-lying deceivers’ in the act” (p. 207). They cover how to preempt and detect lies and deceptions, pointing out that “One of the biggest reasons people lie in negotiation is that they do not know how to answer tough questions” (p. 213). Of course, this applies to us, too, so they suggest thinking in advance about handling these questions and suggest strategies and scripts for responding without deception.

If you catch the other party lying but still want to continue negotiating, you need to help him or her to save face and get back on track. The book includes both “confront” and “warn” sample scripts for doing this.

The authors’ advice to us: do not lie yourself. First, telling the truth encourages the other side to be truthful. But more important, while telling the truth may cost you in the short run, the long-term payoff is usually worth it.

### ***Recognizing and Resolving Ethical Dilemmas***

A key to dealing with ethics in negotiation is to understand what Malhotra and Bazerman call “bounded ethicality.” It is “the systematic and predictable psychological processes that lead people, including negotiators, to engage in ethically questionable behaviors that are inconsistent with even their own preferred ethics” (p. 220). Of course, bounded ethicality applies not only to the other parties, but to you as well. They point out that if you want to be ethical yourself, you need to “understand the ways in which an honest person such as yourself might act unethically without conscious awareness” (p. 220). They deal nicely with conflicts of interest, stereotyping, and overclaiming credit, all of which can occur because of bounded ethicality.

Finally, they introduce the notion of “parasitic value creation,” which is creating value at the table at the expense of parties who are not at the table. An example would be when two pharmaceutical firms settle a patent suit in a manner that creates value for the companies, but harms consumers (who were not at the table) by delaying the introduction of a generic product.

### ***Negotiating from a Position of Weakness***

They offer a range of suggestions on how to bargain from weaknesses, including forming alliances, checking whether the other side’s best alternative to a negotiated agreement (BATNA) might also be weak, and turning your weakness to advantage if the other side needs you to survive. While their suggestions would not guarantee victory, they will insure that you have done as well as possible under difficult circumstances. As they say, “Those who ‘think weak’ inevitably also ‘act weak’ ” (p. 255).

As one’s BATNA is a major source of bargaining power, I would have liked to see this discussion start with a reality check. When you feel weak, you should start by thoroughly examining your BATNA and do what you



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can to improve it. Too often, people incorrectly *assume* they are weak. In my experience, my clients find that, more often than not, their BATNA is noticeably better than they realized when they take time to think about it.

### ***When Negotiations Get Ugly: Dealing with Irrationality, Distrust, Anger, Threats, and Ego***

Malhotra and Bazerman warn us not to be too quick to label someone as irrational. “When you use the ‘irrational’ label, you limit your options, because there is not much you can say to someone who you truly believe is unable to reason. . . . Your options greatly increase when you recognize that the other party is not irrational, but simply uninformed, constrained, or focused on interests that you did not anticipate” (p. 265).

They suggest the following approach for dealing with anger:

- Understand why the other party is angry and respond accordingly. For example, if she is misinformed, inform her; if she seems to feel disrespected, demonstrate respect.
- Give voice to her anger. “I can see that you’re angry, and I want to understand why that is. Tell me what’s on your mind” (p. 271).
- Sidestep the emotion. As in martial arts, don’t take the blow by taking the anger personally. Stay calm and try to diagnose the reason for the anger. Of course, this is difficult especially when the attacks are personal or intended to provoke a response.
- Help him focus on his true underlying interests. “Anger prevents people from staying focused on substantive issues . . . [H]elp the angry negotiator shift attention away from those elements that fueled his anger and toward those elements that would fulfill his interests” (p. 272).

### ***When Not to Negotiate***

Negotiation may not be best, according to the authors, “when the costs of negotiation exceed the amount you stand to gain, when your BATNA stinks (and everyone knows it), when negotiation would send the wrong signal to the other party, when the potential harm to the relationship exceeds the expected value from the negotiation, when negotiating is culturally inappropriate, or when your BATNA beats the other side’s best possible offer” (p. 282).

### ***A Guide for Life?***

Malhotra and Bazerman conclude their book with a description of what they call the disappearing circle. Their students — who are usually either enrolled in MBA programs or executive training seminars — typically arrive with a narrow view (“circle”) of what is negotiable in life. But the more they learn, the more issues, conflicts, and situations in their lives seem to be negotiable. This can be empowering. For some students, who apply the

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ideas they have learned and reflect deeply upon them in subsequent years, the circle that encompasses what is negotiable becomes infinitely large and simply disappears. There are no longer “things that are negotiable” and “things that are not negotiable.” They realize that they have learned fundamental principles “for successfully engaging with other people who, like you, are usually well-intentioned human beings who have different interests and perspectives” (p. 302).

## Conclusion

An unstated theme that runs throughout *Negotiation Genius* is that negotiators should avoid premature attributions about the other party's behavior. The explanations of the underlying reasons for many behaviors — including bounded ethicality, egocentric biases, self-serving judgments about fairness, shading the truth, behaviors that seem irrational or untrustworthy — all lead to the same conclusion: the people with whom you deal are seldom evil, but they are human, and more often than not, well intentioned. Furthermore, negotiators should guard against such behaviors in themselves. Doing so can prevent needless overreaction, reduce the potential for escalating conflict, and increase the chances of agreement. The authors might well have said, “Negotiation geniuses guard against premature attributions of the other side's behavior. They think first about *why* they behave the way they do.”

This book articulates a specific philosophy of negotiation: press relentlessly to create value; investigate, investigate, investigate; play it straight ethically; think long term; understand your own behaviors as well as the other party's; and use your insight to craft better strategies. Do not be too quick with attributions — instead you should knowledgeable and carefully give the other side the benefit of the doubt.

It would be stretching things a bit to say that Malhotra and Bazerman articulate a “golden rule” philosophy of negotiating: treat other negotiators as you hope they would treat you. Such a rule works well in many settings, but I wish that the book addressed the risks more prominently. A few paragraphs on what Lax and Sebenius (1986, 2006) call “the negotiator's dilemma” would have served us well. Of course, the negotiator's dilemma is the potential conflict between open tactics designed to create value and more aggressive tactics designed to claim value. Lax and Sebenius remind us that value-claiming tactics can exploit and diminish value-creating ones.

Becoming a negotiation genius is a lofty but worthy aspiration for most people. And if readers' minds and behaviors were blank slates when they first picked up this book, many of them might indeed become negotiation geniuses by following the authors' suggestions. But unfortunately, most readers will arrive at this book carrying a lot of baggage. Cultural norms and expectations run counter to many of the book's concepts. The fixed-pie bias, for example, is strong. And deeply ingrained habits formed over a

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lifetime can be hard to break. It is difficult to keep your cool when you are being lied to, or receive a ridiculous take-it-or-leave-it offer, or face an aggressive, angry person. Conducting the thorough preparation that negotiation geniuses do is time consuming in a world where there is so much intense competition for our time. Nevertheless, with *Negotiation Genius* Deepak Malhotra and Max Bazerman have given us a new North Star to navigate toward and have done a fine job explaining to us why we should travel in that direction and how.

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