
The Negotiator's Fieldbook: The Virtues and Limits of a Kaleidoscope

[David Fairman](#)[Patrick Field](#)[Hal Movius](#) July, 2007

This review essay appeared in [Negotiation Journal](#) in July 2007. Reprinted with permission. You can download the original pdf in the attachments section (right).

An Editorial Challenge

Here's an editorial challenge: how to organize an interdisciplinary "fresh look" at what we know or think we know about negotiation, given strong evidence that scholarship and teaching on the topic in law, business, planning, and public policy schools has been limited to a relatively narrow range of integrative and distributive bargaining topics.

The Negotiator's Fieldbook is a substantial and creative response. It culminates a remarkable five-year effort by Christopher Honeyman, a long-time independent scholar-practitioner, and Andrea Kupfer-Schneider, a younger legal scholar based at Marquette University, to convene a wide array of scholars and practitioners from a variety of relevant fields, engage them in discussion, and generate essays that capture the breadth of those discussions.

Along with the sheer volume—eighty chapters and eight hundred pages—the Fieldbook is notable for the breadth of its authors, their perspectives, and the topics they engage, and for its publisher: the Dispute Resolution (DR) Section of the American Bar Association (ABA). Most readers, we suspect, would not immediately associate the ABA DR Section with subjects as avant-garde as "miswanting" and "arts and conflict resolution"; it thus deserves credit for its openness to new thinking.

Four Paths to Enlightenment

The first question we might reasonably ask of the editors of this major effort is what, exactly, they're seeking to accomplish. We see at least four possible approaches to the task of "enlightening" the field of negotiation: the beacon, the prism, the mirror, and the kaleidoscope. Each approach is legitimate, and each should be subject to different criteria for judging success.

The Beacon

One approach would be to write a new, multidisciplinary synthesis of the topic, perhaps by organizing a small number of authors from significantly different disciplines. Together they could jointly seek to review the literatures from their own and related fields, and develop a new framework that integrates a variety of insights to provide a fuller explanation of the phenomenon of negotiation. Lewicki, Saunders and Barry, *Negotiation* by Roy Lewicki, David M. Saunders, and Bruce Barry (2005) comes close, although the authors are from related disciplines in organizational behavior and management.

For this approach, success would be integration of the range of disciplines into a single analytic framework that is internally consistent, more powerful in its ability to explain negotiation phenomena than the multiple disciplinary frameworks from which it draws, and has been or could be empirically tested (in multiple ways) to assess its validity.

The Prism

Short of a full synthesis, one could seek to create a highly structured edited volume, asking authors from several disciplines to work from a unified framework, with relatively clearly understood and agreed descriptive and analytic categories, to produce an overview of closely related topics (see e.g. *The Consensus Building Handbook* by Lawrence Susskind, Sarah McKearnan, and Jennifer Thomas-Larmer, eds. [1999] and *Negotiating on Behalf of Others* by Robert Mnoonkin and Lawrence Susskind, eds.).

Success here would be harnessing the insights of many authors to develop the framework and to provide analytic insights that demonstrate the framework's usefulness and coherence, without claiming complete coherence in approach.

The Mirror

Rather than seeking to organize authors from multiple disciplines to draft new work, one could select previously published work from many disciplines, grouped under thematic headings, providing the "best available" peer-reviewed academic and/or highly respected practitioner views. Editorial essays could link the readings to show how they relate to each other (e.g. Roy Lewicki, David Saunders John Minton, and Bruce Barry, eds., *Negotiation: Readings and Cases* [2002]; Stephen Goldberg, Frank Sander, Nancy Roberts and Sarah Cole eds., *Dispute Resolution* [2003]).

For such a collection, success would hinge on the selection of key negotiation issues that have been explored recently in the published literature, the published works that best illustrate how different disciplines are approaching each issue; and editorial essays that highlight the gaps, areas of

overlap, open questions, and possible areas of synthesis.

The Kaleidoscope

Finally, one could choose to commission new work, but give the authors broad latitude within some descriptive categories to provide viewpoints from their disciplines and experience, without an expectation of a coherent synthesis.

For this approach, success would be provoking new questions and new thinking by juxtaposing a range of insightful comments on a topic, preferably advancing beyond what is already well established in each discipline and/or practice area.

The Fieldbook as Kaleidoscope

Which of these four approaches does the Fieldbook take? The editors' stated intent is to provide "the most comprehensive available reference work on negotiation" for practitioners (p. 1), and the basis for an expanded "negotiation canon" for scholars (p. 2). To link theory to practice, the editors hope that materials from this volume will help expand dramatically the core topics taught in negotiation courses in graduate schools of law, business, international relations, and planning (p.2). Given these statements, one might expect the Fieldbook to be some combination of the mirror and the prism: a selection of the key documented works in the field, and a unified framework from which to select specific topics for teaching. In addition, the editors note that the impetus for their work was their sense that the teaching and practice of negotiation had become increasingly "fractionated" in different disciplines. The Fieldbook, then, is also a response to the need to "rethink our field and our supposed 'truths' at recurrent intervals" to reduce that fractionation (p. 2).

In our view, the Fieldbook is primarily a kaleidoscope. It does not present a new synthesis or a new framework, and it is not a highly disciplined attempt to present the best available insights on well-defined issues from the published literature. It is, instead, a sometimes fascinating, sometimes frustrating attempt to show how very different domains of scholarship and practice respond to a set of general questions about negotiation structure and process.

While we differ to some extent with the editors' claims for the book, we strongly support the value of challenging the "fractionated" view of negotiation the editors describe, as well as the goal of offering new insights from many disciplines. In a field as complex and inherently multidisciplinary as negotiation, we are skeptical that any "unified field theory" can or should be established. In fact, we hope that the field will remain as "protean" in its perspectives as the ideal negotiator that Peter Adler describes in his essay, "Protean Negotiation."

Through the Looking Glass

So, given their kaleidoscopic approach, how well have the editors done at providing new insights by commissioning and juxtaposing these essays? Overall, our answer is pretty well, but not as well as we might have hoped from this ambitious effort, deploying such an array of high level talent.

First, the positives. There are many wonderful – and a few truly provocative – essays in this eighty-chapter book. For anyone with a serious interest in the field of negotiation, some of these essays will generate new insights by coming at a familiar topic from a different perspective by examining a less familiar topic, or by presenting a new way of analyzing an issue.

Some “Must-Read” Essays

As three practitioners of international, public, and corporate negotiation and mediation, with backgrounds in political science, planning, and psychology, we differed in our views on what was freshest or most intriguing. Nonetheless, we agreed that the Fieldbook provides several “must-read” essays.

David Sally’s four chapters (three with co-authors) are among the best in this volume. His ability to clearly present and integrate insights from game theory, psychology, and negotiation practice is striking. For example, “Game Theory Behaves” (co-authored with Gregory Jones) is an excellent short treatment of some of the most significant “post-Prisoner’s Dilemma” findings and their ramifications for negotiation theory and practice, particularly with regard to learning and its impact on strategy. It turns out that over-preparing with a not-very-strategic counterpart can be not just inefficient, but actively counterproductive. Life is even more challenging when we need to consider whether and how much other negotiators are learning over time in an ongoing series of negotiations. Whether you’re a trial lawyer or a parent, the answers matter.

Roy Lewicki, a first-generation scholar whose appetite for learning about new issues greatly benefits the field, provides a very helpful overview of “Trust and Distrust.” Among the key points: perceived trustworthiness is a composite of perceived capability, integrity, and intent; distrust is not the opposite of trust, may be rational and appropriate, and need not impede integrative negotiation; and trust may operate at two levels, one more instrumental and rational, the other more identity-based and affective.

There are two strong articles on the themes of apology and forgiveness. “Apology and Negotiation” by Jennifer Gerada Brown and Jennifer Robbinold provides useful definition, evidence, and caveats about the use of apology. Notable among them is the importance of taking responsibility, not just

expressing regret, to make an apology effective as part of a negotiation to compensate for harm. “Unforgiven: Anger and Forgiveness” by Ellen Waldman and Fredric Luskin, raises important questions about the use of “restorative justice” approaches to deal with perpetrators of atrocities in civil conflicts. This article, like many in the Fieldbook, sits at the boundary between negotiation and other fields, in this case post-conflict reconciliation. Nonetheless, the evidence on the inability of people to forgive when their basic needs for security, welfare, and self-esteem have not been met may generalize to many negotiation situations and is a good example of the boundary spanning and thought provoking to which the Fieldbook aspires.

There are many other interesting essays. We were struck by the freshness of evidence and implications from the domains of cognitive and behavioral psychology, and by attempts to cross-fertilize experiences across very different domains: hostage negotiations, the arts, and aboriginal land rights, among others. Some of the chapters suffer from over-generalization and insufficient attention to context, but overall, the very wide range of situations presented highlights the variety of negotiation phenomena worthy of theory-building and practical advice.

Beyond the merits of individual articles, the editors have tried to make the most of their kaleidoscope by offering many different possible juxtapositions. The main Table of Contents organizes the chapters under five broad thematic headings:

1. Why Even the Best Get Stuck (overviews on frames of reference for negotiation);
2. The Big Picture (addressing framing, determining when to negotiate, and fairness);
3. The People on All Sides (addressing individual perceptions, emotions, and interests; perceptions of others; and the mediating impact of nationality, culture, and gender);
4. What to Do? (addressing preparation, communication, exchange, and agreement seeking);
5. A Crowd at the Table (addressing challenges in principal-agent relations, negotiation teams, and the use of experts, interpreters, and mediators);
6. Putting It All Together (addressing training and learning in a variety of organizational contexts, and concluding with several essays by highly experienced scholars and practitioners).

There are inevitably many more possible linkages among the essays, and the editors have sought to

highlight those links in two ways. First, they've done a good (though less than comprehensive) job of cross-referencing chapters within the text. Second, they've encouraged the reader to have fun with the many refraction possibilities by using several "alternate tables of contents," which group subsets of the eighty chapters into different thematic clusters. The alternate tables are available at the ABA website (www.abanet.org/dispute/publications/altenatefieldbooktoc/home.html), and include:

- a primer on negotiation,
- interpersonal negotiations and conflicts,
- employment and intra-organizational settings,
- international negotiations,
- business transactions and disputes,
- environmental and public policy problems,
- negotiation of litigation,
- and for those who have seen it all.

Here again, the editors are to be commended for recognizing the possibilities and providing some clever ways to spin the kaleidoscope.

Weeding the Field

There is, however, a bit less to the Fieldbook than meets the eye. Beyond the dazzle and excitement of the kaleidoscopic approach, a fair number of chapters here are modestly edited versions of previously published works from the quasi-canon of negotiation and the senior scholars and practitioners in the "dominant core" field (e.g. Robert Mnookin on "When Not to Negotiate," Deborah Kolb on "Strategic Moves and Turns," William Zartman on "Timing and Ripeness," Chris Honeyman on "Using Ambiguity," Robert Wade on strategies for "Crossing the Last Gap").

Among the "out-of-the-box" chapters are some that one might argue are "way, way out," not

because they are not insightful but because their connection with the topic of negotiation, even very broadly construed, is debatable. And among the chapters and sections that seek to extend our insights on reasonably well-established topics, there are questions to be asked about the selection and treatment of issues.

Let's take the section on "When Is It Really a Negotiation?" in Section II, "The Big Picture." The chapters here include

- "When Not to Negotiate" by Gabriella Blum and Robert Mnookin
- "Avoiding Negotiating: Strategy and Practice" by Lisa Bingham
- "Nonevents and Avoiding Reality" by Susan K. Morash
- "Negotiating Access" by Alexander Hawkins, Chris Stern Hyman and Christopher Honeyman
- "Timing and Ripeness" by I. William Zartman

The first chapter, "When Not to Negotiate," presents a solid overview of the widely accepted integrative negotiation approach to preparation, focusing on interest and BATNA analysis. Blum and Mnookin do a fine job of summarizing the key elements, but it is unlikely the "experienced negotiator" to whom the Fieldbook is ostensibly directed will find anything new here if he or she has taken at least a graduate introductory course or read one or two of the canonical texts in the integrative negotiation literature (e.g. *Getting to Yes*, *The Manager as Negotiator*). The authors provide no new empirical evidence, although they do draw on some of the other chapters to note cognitive barriers that may lead negotiators to underestimate the potential gains from negotiation and to overestimate the gains from unilateral action. We wish that they had taken the analysis a bit further. For example, beyond a nod to "moral and ethical considerations," the authors could have engaged the interesting essays on apology or forgiveness: when should either or both stand as pre-requisites to negotiation? On a more perceptual level, should negotiators consider the possibility of "Miswanting" as they consider whether negotiation could meet their own or their potential counterparts' interests?

Lisa Bingham's chapter on "Avoiding Negotiating" in some ways extends the analysis (with a slightly misleading title) by focusing on whether to begin and when to stop negotiating. There is, however, some analytic murkiness. The chapter begins with "avoidance" in the same sense that Blum and

Mnookin mean it, i.e. choosing not to negotiate, rather than walking away. Bingham doesn't add much here to Blum and Mnookin's chapter. She then looks at "yielding" (giving in quickly), which she notes can lead to the development of coercive relationships; but she also uses "yielding" as a term to describe quick trade-offs that may encourage reciprocal concessions—putting us squarely back at the negotiation table. She discusses "walking away," (exercising one's BATNA), and makes several good cautionary points, but nothing that is not part and parcel of standard BATNA analysis. The final section, on the chilling effect of some dispute resolution systems, makes an important point about incentive structures that encourage parties to arbitrate rather than negotiate or mediate. In short, there's some quite solid analysis, but not much to provoke or to connect with other chapters.

After Bingham's chapter, the section flies off on some odd tangents. In the chapter entitled "Non-events and Avoiding Reality," Susan Morash presents evidence on nurses' willingness to report potential medical errors to patients, given more-or-less explicit hospital policies requiring such reporting. While quite interesting (and disturbing from the viewpoint of medical accountability), these findings have at best a very limited application to the field of negotiation. In the examples given, the interpretation of the reporting mandate by individual nurses in their own minds, rather than any negotiation with other medical staff or with patients, is the focus of inquiry. What might have been of interest from a negotiation standpoint is whether and how reporting was framed as a mandate or as a negotiable issue by hospital administrators and staff, and in cases where it was potentially negotiable, when and how medical staff chose to negotiate it with each other given the constraints of the particular policy.

In the following chapter, "Negotiating Access," authors Alexander Hawkins, Chris Stern Hyman, and Christopher Honeyman strain to shoehorn four quite different experiences into a single category of negotiation challenge. In the first case, an effort to get data on plea bargaining in Britain was met with denial by the bar that much plea bargaining goes on, despite a good deal of evidence to the contrary. In the second case, a proposal to mediate bill collection cases for a hospital led to a protracted negotiation, with a no-deal outcome. In the third case, negotiation trainers sought to provide extensive training on communication to doctors at a hospital, and eventually negotiated agreement for an abbreviated skills training. In the final case, the authors (amusingly) summarize their experiences trying to get senior scholars in the field of negotiation research to address the issue of inter-disciplinary approaches to research, with eventual positive results. The authors argue that what ties these cases together is the problem of getting high power/status parties to recognize that they do negotiate and/or to agree that negotiation is an important topic, prior to negotiating the specifics.

While one might grant that "negotiating about negotiating" is a common substantive thread tying the cases together, it's rather like arguing that the cases of a factory strike, building a new factory,

and negotiating a merger of two manufacturing organizations all have to do with gaining access to factories. Given the striking lack of analytic similarity in parties, issues, negotiation strategies, and outcomes, it's not surprising that the authors are left with the uninspired conclusions that it helps to have or build some credibility with the parties, to have credible allies, to be responsive to their interests, and to recognize the importance of timing.

This section concludes with Bill Zartman's chapter on timing and ripeness. As with several other senior scholars' contributions, Zartman's is a nice summation of his work on the importance of "hurting stalemates" as a basis for negotiated resolution of intra- and inter-state conflicts, with references to other domains. Zartman appropriately stresses that parties use subjective judgment to decide when they have reached a stalemate and notes the potential for intervenors to affect the parties' judgments; he also notes the importance of prospect theory as an explanation for risk taking to avoid loss, and as a tool for intervenors who want to frame the benefits of resolution as a way to avoid the cost of continued conflict. There's not much here that hasn't been seen before, but it's well presented.

In short, the section begins and ends with well-turned summary essays on what most scholars would agree are critical issues in determining whether and when to negotiate, but wanders in the middle, with little that's provocative, and some chapters whose relevance to the stated topic is hard to see.

"Is It Moral, Is it Fair, Is it Right?" – and Is it Rational?

Similar patterns emerge in several other sections of the book. The section "Is It Moral, Is it Fair, Is it Right?" seeks to highlight some key questions of ethics in negotiation, providing both philosophical arguments and data from particular studies. The odd choice to exclude Cheney Ryan's chapter "Rawls on Negotiating Justice" from this section aside, the chapters present a series of interesting ideas and questions about the ethics of negotiation. While normative approval of "integrative bargaining" styles is implicit, at the least, in the more philosophical chapters of this section, the chapter on "Reputations in Negotiation" by Catherine Tinsley, Jack Cambria, and Andrea Kupfer Schneider refreshingly offers experimental and observational data that ethical behavior in negotiation and integrative approaches to negotiation actually do result in greater value, measured in terms of economic value, professional effectiveness, and lives saved in hostage negotiations.

Though these chapters collectively illuminate a series of interesting ideas and questions, they also leave out some key considerations. No chapter seeks to posit a specific set of ethics for negotiators. While Lewicki's chapter on "Trust and Distrust" lays out very practical prescriptions for how to operate in complex environments of trust and distrust, no other article offers a practical, ethical guide, however limited, to how negotiators should behave. Although such a chapter would be rife

with limitations and open to criticism, it would have offered an additional, more concrete turn to the set of chapters in this section. Furthermore, these chapters seem to share an implicit assumption (understandable given the roots of modern negotiation theory) that integrative bargaining is better, not because it's ethically superior but because it works better along utilitarian lines – following the game-theoretical evidence that you maximize your self-interest over multiple plays of Prisoner's Dilemma scenarios through “tit-for-tat” behavior. This may be so in games where mutual gains are possible, but there are of course zero-sum situations in which integrative bargaining is not appropriate, and the chapters give only passing attention to difficult question of ethics in distributive negotiation; most of the focus is on bounding self-interested behavior in situations where joint gains are possible.

Implicit in some but not all the chapters is the notion that negotiators have numerous choices they can make within negotiators. Many of the selected articles presume free and rational choice, an assumption that recent cognitive and behavioral sciences are seriously undercutting. What we appreciate about Russell Korobkin, Michael Moffitt, and Nancy Welsh's chapter on “The Law of Bargaining” is its examination of the structural, or at least legal, boundaries that constrain negotiations regardless of individual behavior.

The section as a whole does not address the growing body of evidence that free will and choice are handy but “untrue” constructs. Cognitive and behavioral science is uncovering just how constrained the human mind is regarding conscious choice, how determined many of our actions are, and how talented we all are at rationalizing “choices” we actually may not be making in any real sense (see e.g. Chris Guthrie and David Sally's chapter on “Miswanting”). An additional chapter on this research would have raised some interesting questions: if choice as we know it is severely constrained by societal, cultural, physical, and genetic determinants, exactly what is and isn't ethical in negotiation? And, if ethics aside, we have little choice, given what we know about the human mind, how do you better prepare for negotiations in such a constrained, unconscious, and confused state?

Perplexing Guidance

Finally, the alternate tables of contents do not offer straightforward guidance on their stated topics. For example, the chapters that putatively relate to “business transactions and disputes” range from general observations and advice about email as a communication mode, to a chapter on hostage negotiations. The chapter on “Ulysses and Business Negotiations” by David Rose begins with the editors' promise that “Here, a businessman with an impeccable reputation make a radical case.” The case turns out to be that businesses that want to grow and prosper need to worry about their accountability and reputations, and that cutting corners puts reputation at risk. This is hardly a new theory, and given the ranking of Walmart and Exxon as the two largest businesses in the world, some systematic, rather than anecdotal, evidence to support the claim would be welcome.

A functional desk reference on business negotiations would begin with a list of common problems that experienced negotiators commonly face. These might include improving your BATNA; dealing constructively with a competitive counterpart; organizing a mandate from your own complicated back table; discovering underlying interests; measuring the long-term value of a negotiated agreement; sequencing negotiations; coalition-building and coalition-blocking; and so forth.

Opening the Doors of Perception

We applaud the editors and the authors of *The Negotiator's Fieldbook* for taking on an important and challenging task: opening our eyes to the myriad of contexts in which negotiation takes place and to the many disciplines that have something important to contribute to our understanding of the phenomenon of negotiation. Though their commendable collective effort is not always more than the sum of its parts, the many important ideas, the wealth of evidence, and the diversity of viewpoints on display are noteworthy and should catalyze further interdisciplinary research on this elephantine topic.

We do have some thoughts on more systematic “beacon” efforts and “prism” efforts at synthesis that we think interdisciplinary groups of scholars should consider pursuing. One possibility would be to “hold constant” the situation for interdisciplinary analysis, by asking several scholars to approach a small number of well-documented and quite detailed accounts of real-world cases (e.g. a two-person family negotiation; a two-party buyer-seller transaction, a multi-party public policy dispute; an international conflict resolution process, etc.). The authors could draw on their disciplinary expertise to assess each case from multiple perspectives. We could then understand better the value of a multi-disciplinary perspective in explaining the process and outcomes of negotiation in different contexts; we might also understand better the specific contributions and limitations of each discipline.

A more accessible and practical guide for the experienced negotiator might start with the acknowledgement that most negotiators are operating in institutional environments that play a significant role in shaping their perceptions and behavior. For example, within the *Fieldbook*, Judge Wayne Brazil clearly lays out common constraints and prescriptions faced by lawyers negotiating in Federal court settlement conferences (one norm is to start with a high demand, and starting too close to the likely settlement point can be counterproductive). Providing a taxonomy of common/recurring negotiation problems, set in different contexts and sectors, might well appeal to a broader set of leaders/actors across sectors. Each chapter would marshal evidence to try to answer a particular problem and/or reframe it from several angles. The authors could draw conclusions based on current evidence, and point out which questions still lack definite answers. Such a work would sharpen the focus of leaders, funders, and scholars on where to put their efforts in order to see real-world impact/results.

Finally, given the state of international relations, it might be useful to organize deeper interdisciplinary efforts to understand the negotiation dynamics of the highest-stakes international conflicts. In these conflicts, deeply held religious/ideological beliefs and psycho-social pressures on leaders combine with incompatible national interests and power imbalances to make negotiated resolution sometimes nearly impossible. A “Manhattan Project” approach to resolving these conflicts, building on the very strong foundations that already exist in the fields of diplomacy, international conflict resolution and peacebuilding, but introducing more fully insights from cognitive and behavioral psychology as well as “imported” strategies and practices from other domains (hostage negotiations? divorce mediation?), would seem a worthwhile endeavor for the field.

The list of other potentially valuable cross-disciplinary projects is no doubt long. We look forward to these and other efforts to spin and focus the creative kaleidoscope that the *Fieldbook* offers, and to transform its parts into other tools for enlightening scholars and practitioners of negotiation.

Negotiation Journal

David Fairman, Patrick Field, and Hal Movius review the kaleidoscopic volume, *The Negotiator's Fieldbook: The Desk Reference for the Experienced Negotiator*, Andrea Kupfer Schneider and Christopher Honeyman (eds). Substantial and creative, the *Fieldbook* is notable for its sheer volume, the breadth of its authors, their perspectives, and the topics they engage.