THE MIND OF THE NEGOTIATOR

When Good People (Seem to) Negotiate in Bad Faith

Here’s a way out of mistrust and into mutual agreement.

BY MAX H. BAZERMAN, DOLLY CHUGH, AND MAHZARIN R. BANAJI

Suppose you’re meeting with top management to allocate budgets for the next fiscal year. You describe your team’s recent accomplishments in detail, then state: “I believe my division deserves 60% of the credit for the corporation’s overall success this past year.” To your surprise, another VP begins passing out some spreadsheets. “Actually,” he says, “your division has been lagging behind for at least the past six months. I think we had better rely on the hard numbers.”

Most of us can think of instances in which our motives have been questioned during a negotiation. You make an earnest comment to a coworker or client about the value of your contribution to the relationship, and it becomes clear that he doesn’t share your point of view. Such an apparent “attack” on your ethics is likely to leave you dismayed. More than anything else, you pride yourself on your integrity.

You probably also can recall times when a negotiating opponent made what appeared to be a blatant misstatement. If you’re like most people, you assumed the person was lying to gain an advantage. But what if she genuinely believed in the false claim? It’s not easy to offer the benefit of the doubt, especially when the stakes are high.

Reasonable, fair-minded negotiators often find themselves in such situations—accusing others of unethical behavior or facing such accusations themselves. Either way, the negotiation may head down a path that leads to impasse and destroys the relationship.

To fully understand the constraints on your own negotiating ability, you need to overcome the common assumption that ethically challenged behavior always results from a conscious decision to engage in self-rewarding behavior. In fact, the unethical behaviors that we routinely engage in during negotiations are more likely to spring from ordinary psychological processes than from intentionally corrupt behavior.

Here, we show you how to identify—both in yourself and in others—the types of ordinary unethical behavior that occur regularly in negotiation and suggest ways to prompt more ethical and rewarding agreements.

Beyond bad intentions

Most managers are aware of their conscious, or explicit, attitudes and preferences, including their beliefs and stereotypes. For example, you may believe in principle that it’s unfair to promote (or fail to promote) individuals because of their race, gender, age, and so on.

But such conscious thoughts and actions are only the tip of the iceberg. In recent years, psychologists who study decision making have debunked the assumption of intentionality as the main instigator of human behavior. Instead, unconscious thoughts and feelings have emerged as a prime cause of our actions.

Our research shows that most negotiators regularly make incorrect, self-serving statements without recognizing that their behavior is ethically questionable. When you treat such negotiators as liars, they will probably be surprised, if not offended. They are unlikely to see that pervasive self-deception causes their behavior to diverge from objective standards of measurement.

The same holds true when others make snap judgments about your motives. You are likely to show the same bias; self-serving aspects of your behavior will be invisible to you.

Unconscious bias, unethical behavior

Four unconscious biases lie at the root of ordinary unethical behavior in negotiation:

1. Implicit stereotypes.

A striking finding to emerge from our research is the disparity between most people’s conscious and unconscious prejudices. The “Implicit Association Test,” developed by Anthony Greenwald, Mahzarin R. Banaji, and Brian Nosek and described in the sidebar, measures thoughts and feelings that may lie beyond conscious control. Sometimes an individual’s implicit and explicit attitudes are in tune with each other. At other times, particularly regarding sensitive issues such as race and gender, they can differ greatly.

This fact can be difficult to reconcile, especially when you uncover attitudes within yourself that you find objectionable, even morally reprehensible. Yet implicit stereo-
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types may be sabotaging your efforts at impartiality. Specifically, we unconsciously use subjective standards to judge individuals by the qualities we believe to be true of the groups to which they belong.

Imagine that a purchasing manager is working to increase contracts with women-owned vendors. This policy makes good business sense, he believes, and it’s important to give opportunities to such firms. In a contract negotiation with the CEO of one such vendor, the purchasing manager finds her questions to be a bit aggressive and is disappointed when she doesn’t laugh at his jokes. On all objective measures, the woman’s company is the best for the job, but the manager chooses another vendor based on the CEO’s personality.

Automatically and without awareness, the purchasing manager compared the vendor’s assertiveness to that of other women rather than to a more universal standard. As a result, he exaggerated her assertiveness without recognizing his mistake. Likewise, a man who seems less assertive than other men may also be harmed by such implicit stereotypes.

Are You Really Unbiased?

Do you value the elderly and young people equally? Do you believe that women are just as capable of scientific achievement as men are? Are you free of prejudice toward those who are disabled, overweight, or of a different religion?

You may think that you’re unbiased when it comes to race, gender, age, and so on, but the truth may surprise you. To test yourself, try out our demonstration at http://implicit.harvard.edu/implicit/. The Implicit Association Test, or IAT, explores your underlying attitudes—for instance, by assessing how easily you pair words such as “good” and “evil” with images of people who fall into racial categories such as “Black” and “White.”

The results may reveal that you’re not as open-minded as you thought you were. For instance, people who consider themselves to be unbiased and fair are often surprised to discover that, try as they might, they have much more trouble associating the word “good” with “Black” than with “White.”

If your results are disappointing, don’t despair. Awareness of your implicit attitudes is an important first step toward identifying and correcting them. Before approaching the bargaining table, remind yourself to anticipate the errors that can get in the way of a solution that is good for you and for your organization.

2. In-group favoritism.

Suppose that you and your boss have interviewed two people for a position. You believe that Shawn is clearly the better candidate, while your boss prefers Steve. “It’s true that, like Steve, I graduated from Yale,” your boss says. “But that’s not why I want to hire him. The fact is, Yale seems to train people in ways that work for our firm.”

Your boss may well believe that Yale grads are more apt to succeed than alumni of other schools. At the same time, she also may be affected by in-group favoritism—the tendency of people to give preferential treatment to members of groups to which they belong—and, consequently, put outsiders at a disadvantage.

Most of us feel good when we are able to give a boost to a fellow alum, a neighbor, a relative, or a church-group member. Yet when we do so, we often fail to recognize that helping an in-group member harms an out-group member who lacks this association. Those who belong to privileged groups and statistically large groups are the most likely beneficiaries of in-group favoritism, which is unconscious, invisible, and causes real inequities.

3. Conflicts of interest.

A salesperson has just given you his pitch, and you’ve asked him whether he works on commission. “Sure,” he says, “I’ll be rewarded if you buy our product. But I honestly can say that I would not try to sell it to you if I didn’t believe that it was the best product available to meet your company’s objectives.”

In many professions, conflicts of interest exist between obligations and perks. Doctors recommend drugs after being wined and dined by pharmaceutical companies. Accountants serve as consultants for the same firms whose books they audit. Real-estate agents receive a percentage of a home’s sale price, and many lawyers live by the billable hour.

It would be unfair to indict all these professions for unethical behavior. Yet conflicts of interest between what personally benefits a negotiator and the claim she might make to others can cause real damage. Research shows that professionals routinely—and unintentionally—can convince themselves that their product or service is the very best option for a client, even when, objectively, this is not the case.

4. Overclaiming credit.

Many years ago, researchers Michael Ross and Fiore Sicoly of the University of Waterloo asked husbands and wives to estimate the percentage of the household work they did. On average, the total amount of work claimed by each couple far exceeded 100%. The husbands and wives felt they were contributing more than was actually the case—and that their spouses weren’t carrying their weight.
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Since then, overclaiming of credit has been uncovered among academic authors, MBA team members, and a host of other groups. Research provides compelling evidence that people automatically and unconsciously interpret data in a self-serving manner and then arrive at moral judgments based on these implicit thought processes.

Similarly, division heads may attempt to overclaim credit when scarce resources are being negotiated within an organization. What may appear to be selfish behavior may actually be ordinary unethical behavior that lies outside the negotiator’s conscious awareness. So, before arguing that your division deserves 60% of the credit for your corporation’s recent success, take a cold, hard look at the numbers. You may be contributing less than you think you are—and others may be contributing more.

But I’m a professional!
You might argue that your professional training immunizes you from ordinary unethical behavior. In fact, many aspects of managerial life actually exacerbate the likelihood that you will behave unethically in negotiation.

The busier people are, we argue, the more they rely on automatic thinking, which leads to ordinary unethical behavior. Executives often squeeze in negotiations among a multitude of demands on their time. In addition, negotiators must juggle a variety of complex cognitive tasks: thinking about creating and claiming value, listening and persuading, looking for linkages between issues, and so on.

Furthermore, business professors Ann Tenbrunsel of Notre Dame University and David Messick of Northwestern University have argued that a key driver of ordinary unethical behavior is the innate tendency for individuals to engage in self-deception. Most of us simply fail to even notice the ethical components of our decisions. We engage in “ethical fading” to transform—often unconsciously—ethical decisions into ones that lack an ethical component.

Becoming a more ethical negotiator
Given the prevalence of corporate scandals in recent years, many have questioned whether ethics training for professionals has done much good. One of the reasons that such training has achieved limited success is its focus on intentional, explicitly unethical behavior. Such training encourages students to do what is right rather than what is profitable. Yet most professionals are not ethically challenged at an explicit level, and those who are may be unceptive to the messages of ethics training.

Once you overcome the common assumption that unethical behavior is always intentional, you are freed to identify ways in which your behavior is inconsistent with your own ethical preferences. This mindset also allows you to better understand the behavior of your negotiation counterparts and to strengthen your relationship with them.

One simple tool for eliminating ordinary unethical behavior is the use of contingent agreements, also known as profit-sharing agreements, risk-sharing agreements, and bets. Contingent agreements link payment or other rewards to a future outcome, such as delivery or customer satisfaction, thereby reducing the risk of unethical behavior. For instance, if a salesperson on commission attests that his product is the best available, you might ask how that superiority can be measured and align your payment with performance. If the product turns out to be disappointing, he’ll have to accept a lower payment. (See Lawrence Susskind’s article “Don’t Like Surprises? Hedge Your Bets with Contingent Agreements” in our January 2005 issue [Reprint # N0501C] for more detail on contingent agreements.)

Finally, avoid accusing others of unethical behavior when their actions could have been unintentional. After all, it’s quite possible that they will take issue with one of your claims next!

Max H. Bazerman is the Jesse Isador Straus Professor at Harvard Business School and the vice chair for research for Harvard Law School’s Program on Negotiation. Dolly Chugh is currently completing her dissertation in the organizational behavior doctoral program at Harvard. Mahzarin R. Banaji is the Richard Clarke Cabot Professor of Social Ethics in the Department of Psychology and the Carol K. Pforzheimer Professor at Harvard’s Radcliffe Institute for Advanced Study. They can be reached at negotiation@hbsp.harvard.edu.