Business School

WORKING PAPER SERIES

Working Paper

2014-223

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Claude Alavoine

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IPAG Business School
184, Boulevard Saint-Germain
75006 Paris
France

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Unethical Practices in Negotiations. The Confrontation between Internal and External Factors

Claude Alavoine
IPAG Business School, Nice, France
E-mail: c.alavoine@ipag.fr

Keywords: negotiation, ethics, bluff, deception, threats, attribution.

Abstract

Most of the negotiators have a tendency to complain about the unethical aspects of the tactics used by their counterparts while, as the same time, they are mostly unaware of the sources of influence of their own vision of negotiation and practices. The levels of honesty, trust and therefore cooperation are influenced by many factors like the uncertainty of the situation, the objectives, stakes and interests, the level of power, the negotiator's personality and also by the orientation given from the very beginning of the relationship. When negotiation is reduced to a confrontation of power, participants rely on coercive measures, using different kinds of threats or make false promises and bluff in order to establish a more acceptable balance of power. Can unethical practices always be attributed to personal characteristics or also be justified by the requirements of the situation? Drawing on concepts from several disciplines, our first intention in this paper is to clarify the sources of influence leading negotiators to unethical practices in opposition sometimes with their vision of the relationship. Then we will examine some aspects of the attribution process enabling participants to make causal explanations about unethical practices in order to uncover new hypotheses for experimental research.

Introduction

As a purely human activity used in order to solve conflicts or in a more positive way, to build projects, negotiation is a complex interaction involving participants with different visions of what is or should be a proper one. From the vision of the relationship as a pure competition, focusing only on interests, to cooperation based on trust, the negotiators will position themselves in terms of tactics and ways or means which are, to them, appropriate in order to succeed. This positioning depends on many variables linked to the specificity of the situation, like the level of power, stakes and interests, the context and participants or even the nature of conflict. These choices can sometimes be in opposition with the negotiator's initial representation of what should be the interaction, based on his own values, beliefs that are usually expressed in society.

But are people acting in negotiation like they do in a non conflicting situation? What are the reasons of their behavior in this specific situation? Could the willingness to succeed justify any means? In other words, could unethical practices be attributed to the essence of negotiation itself, to the nature of the interaction or to the characteristics of the participants?

First we will study the influence of some fundamental elements of negotiation over the use of unethical practices in an attempt to figure a model of confrontation between visions of negotiation, practices and the interpretation of behaviors. Then we will consider the attribution process that leads to decisions regarding whether or not a practice is unethical.

Defining negotiation

As with many concepts, there are different angles and ways of defining negotiation. The following definition presents three essential aspects of any negotiation: the idea of a specific process, the presence of conflicting aspects, and the finality involving the participants.

"Negotiation is a joint decision-making process through which negotiating parties accommodate their conflicting interests into a mutually acceptable settlement" (Faure, Sjöstedt, 1993).

The driving force of this specific situation is a common need for agreement because of an expected gain, leading the participants to a certain level of interdependency.

Two or more parties with conflicting interests and a certain control and decision making on each side are trying to reach an outcome that is initially undefined through means of communication.

Negotiation is a voluntary process involving different actors with different interests or goals, different attitudes and strategies leading to a situation were people are trying to adjust these differences in order to reach an agreement. The willingness to find a solution despite the divergence regarding the decision implies that negotiators must carefully fix their objectives with certain flexibility. Each party in the relationship must cooperate to reach his or her objective and each party can block the other one from attaining his or her goal (Putnam, 1990). This interdependence sets up a mixed-motive relationship in which both parties cooperate by competing for divergent ends (Putnam, Roloff, 1992).

One of the key aspects of negotiation is the presence of both conflicting and cooperative aspects. The negotiators have to find the right balance between these two aspects in order to attain a mutually acceptable solution. These two poles are presented as "distributive and integrative" dimensions.

Distributive refers to the division and distribution of a specific "pie" considered as the outcome of the negotiation process, for which each participant is fighting over the largest part. It is a win-lose situation or a zero sum game where everything earned by one of the parties is lost by the other. Everybody wants to maximize his share of the resources which are somehow limited or fixed. Negotiation is understood as a competition where opposition is quasi-permanent and each participant seen as an opponent or enemy in a conflicting context.

On the opposite side is the integrative dimension, in which negotiators are not only concerned with their own objectives but are also interested in the other party's interests and aspirations. Also called "cooperative" or "collaborative", this kind of negotiation sees both parties trying to maximize the joint outcome, assuming that the size of the "pie" can be increased if the participants collaborate. The situation here is a win-win type or a positive (non zero) sum game. The negotiators seek solutions which can benefit either party, or at least when the gains of one party do not represent an equal loss or sacrifice by the other.

Understanding the process through this dichotomy seems unreal as, in practice, negotiation is always a mix of cooperation and competition. As shown by Lax and Sebenius (1986), any negotiation includes both "value creating" (integrative) and "value claiming" (distributive) features. However, the interdependence between these two poles creates several dilemmas for the negotiator in his decision making process. These dilemmas consist in fixing the objectives, deciding on the level of cooperation, honesty and trust, the level of toughness (Zartman, 2005) but also on the ways and means that should be used.

For Walton and Mc Kersie (1992) dilemmas arise because the tactical requirements of one sub process (i.e. distributive bargaining) are opposite to those of the other sub process (i.e. integrative bargaining); managing the dilemmas between these two sub processes present a central challenge to negotiators.

Nelson and Wheeler (2004) studied how negotiators experience these tensions in practice, revealing that mostly the tension is between assertiveness and empathy. According to Sebenius (2001)**,** one of the common mistakes made by negotiators is to neglect the other side's problem or even, when they see the other side's concerns, to dismiss them.

Allred (2000) prescriptive advice on how to manage the tension between creating and claiming value, demonstrate the difference between "best practices" and "strategic practices". While strategic practices, like "sharing information" can lead to dilemmas, best practices like "listening" contribute to maintaining a relationship and creating value.

Nevertheless, since negotiators in the process are evolving from competition to cooperation and reverse, they reveal in the interaction the relative power that they have over the acceptance from the other party of options or decisions. But the power position is never definitely fixed as one of the characteristics of negotiation is to make it shift during the course of the arguments used. During the process participants can become adversaries or partners due

to the quality of the relation, the nature of the conflicting issues, of information exchanged but also because of behaviors, attitudes and perceptions.

The levels of honesty, trust and therefore cooperation are influenced not only by the uncertainty of the situation, the objectives, interests or stakes but also by the orientation given from the very beginning of the relationship depending on the estimated power of each participant.

Interest, Stakes and asymmetry of power

Interests are considered by Lax and Sebenius (1986) as the element that can measure negotiation. According to them, it is the raw material of negotiations and can take many forms including tangible but also intangible elements. Although negotiators focus on their interests and must take into consideration the other party's interests they have a very narrow conception of it. Lax and Sebenius make a clear distinction between intrinsic and instrumental interests leading to three misunderstood aspects of negotiation: interests in the process, the relationships and in principles.

Intrinsic interests are independent of any subsequent deals while instrumental interests are influential on following deals or outcomes. The first ones are objective and can be mostly quantified on a short term basis while the other ones are more long-term oriented and can be totally subjective. Both can be present in the three aspects mentioned before: even if negotiators evaluate agreements by measuring the value obtained from the outcome, the way the negotiation process was carried might have an importance as well. The relationship brings intrinsic interests because of the trust established between the parties but sometimes they may find no instrumental interest in keeping the relationship. Finally, negotiators can share or develop common values or norms that can provide immediate or future effects. Leroux (1992) talks about instrumental or fundamental stakes; the visible, material, tangible part (instrumental) made up mostly of economical aspects is sometimes less important than the invisible one (fundamental) which refers to notions like self esteem, status or reputation.

As Dupont (1996) shows, there is a clear link between interests and stakes. Every negotiation implies expectations, objectives, interests, consequences (positive or negative), risks, probabilities (chances). The stake of the negotiation is the impact of the outcome on the interests, tangible or intangible ones. Stakes will, therefore, contribute to put pressure on each negotiator while creating a strong motivational effect.

The participants count on resources that they possess which are of interest to their opponent, but they have different expectations regarding the interests provided by these resources. As a result, because stakes and interests are unequally evaluated and can have immediate or lasting effects, the negotiators are confronted to a balance of power that reveals mainly during the process, placing the interaction as the most difficult phase to manage and leading sometimes to an escalation of conflict.

For Dupont (1996), the level or degree of dependency has an obvious effect on the asymmetry of power in the sense that the more dependent an actor is relative to opponent, the weaker is the negotiation strength. But this dependency has to be considered on two different aspects; the existence and potential of alternatives but also the importance of interests, stakes, objectives or expectations. Dupont (1996) separates personal factors like skills or credibility from "objectives" factors like the latitude of choice, the capacity to sanction or the importance of the opponent.

A first approach regarding power in negotiations may consider resources that permit a party to punish or reward another one for its behaviour. For Zartman (1991) power can come also from elements that determine the vulnerability of the other party to such punishments or rewards.

Lewicki & al (2001) assume that power in negotiation must not be considered as absolute and coercive even if it is mostly a capacity to influence or the ability to bring about outcomes that are desired. They prefer to separate the power revealed in negotiations from the influence processes used in interpersonal relations.

In that sense they join the relational definition of power given by Deutsch (1973) that emphasises the specificities of each situation. The power of an actor in a given situation (contingency approach) can be evaluated as the "degree that he can satisfy the purposes that he is attempting to fulfil". Therefore power depends also on the relationship rather than purely

on the resources of each participant. The characteristics of the situation as well as the characteristics of the participants determine the balance or the asymmetry of power.

According to Deutsch (1973), some elements of power derive from the situation or the context instead of being only attributes of each actor. As he suggests there is a clear distinction between the *environmental power*, the *relationship power* and the *personal power*.

Boulding (1999), considering that power is the ability to get what we want, divides it in three major categories from the point of view of its consequences: *destructive power*, *productive power* and *integrative power*. The last one has a destructive and productive aspect depending n the relationship and its origin.

The *power of commitment* was originally exposed by Shelling (1966) who identifies power with the ability to commit to a position from which your counterpart cannot be expected to withdraw. A commitment functions by restricting the bargaining range in favour of the one who is committing.

Fischer (1999) distinguishes two different kinds of commitment: affirmative and negative.

An affirmative commitment is a decision about what the negotiator is willing to do. It can be considered as an offer. This offer can be formulated in a way that maximizes the impact of the other categories of negotiating power. An affirmative commitment (offer) can be justified by a specific knowledge or expertise or take into account alternatives leading to the best possible offer.

On the other hand a negative commitment is a decision about what the negotiator is not willing to do or accept. It represents the limits of what is negotiable but can be controversial in the sense that it can lead to threats or ultimatum and damage the quality of the relationship.

Unethical Practices

As negotiation was described previously there are no doubts that the necessity to consider someone else interests and objectives while at the same time preserving and defending your own interests and objectives implies many difficult choices regarding the ways and means used in order to succeed. As explained by Cohen (2002), negotiation is a human encounter that poses ethical problems on the simple fact that each party tries to get the other party to do something in its own interest. Furthermore, as there is no definition of business on which all can agree, it is difficult to concur on what are business ethics and ethical practices (Lewis, 1985). People differ in their vision of ethical and unethical behaviours even within homogenous cultures depending on their age, experience, education level or even gender mainly because of differences in personal subjective values (Barnett and Karson, 1987).

Many of the searches made in that field come to the conclusion that most of the unethical practices are linked to the nature of information that is exchanged during the process and how this information is transferred. Information is an important source of power in negotiation. To Lewicki and Robinson (1998), negotiation is primarily a process of exchanging and communicating information in a persuasive manner. Therefore, the opportunities for unethical conduct are some of a dishonest communication. In that sense, deception, bluff and lies and finally threats are tools that come naturally and logically to negotiators in order to manipulate favourably the balance of power.

A) Lying, deceiving or bluffing?

To Lewicki (1983), the primary purpose of lying in negotiation is to increase the liar's power over its opponent by using false or misleading information. Theses lies can take many forms from which bluffing and deceiving play in important part.

Since Carr's paper (1968) on bluffing and the analogy between negotiation and poker, the question of the legitimacy of the use of deception has been widely discussed and remains the source of many debates. For many authors, deception is a component of bargaining which can advantage the deceiver or protect him. To Carr, bluffing or deception must be regarded as a strategy in a game where business ethics must not be confused with private life ethics.

To Allhoff (2003), bluffing is morally acceptable in negotiation because both participants endorse this practice and also because in the bargaining process there is no other reasonable

procedure. Bluffing, if not one of the fundamental elements of negotiation is however considered as the essence of bargaining.

This vision is based on the idea of role-differentiated morality. In that case, certain roles make acts permissible that would otherwise be impermissible.

As explained by Varelius (2006)**,** if bluffing is similar to lying and deception it should be considered as morally condemnable. More than this, the legitimacy of bluffing as a totally endorsed practice by negotiators, a part of the game, might reveal false in situations where the adjustment between the parties doesn't require it.

Provis (2000) argues that we are in negotiations "subject to the same ethical constraints as we are in other social interaction". To him, the use of bluffing and deception is not necessary for self-defence and these practices do not guarantee a redistribution of power between the participants or compensation to the lack of specific skills or resources.

Smithey Fulmer & al (2009) make a clear distinction between deception regarding the informational elements and the emotional elements. While most of the studies put an emphasis on the manipulation of information only few consider the motivation of a negotiator to engage in emotional deception. In that case, the intentional use of emotions in order to deceive becomes a tactic, a stratagem that can change the outcome.

Olekalns and Smith (2009) show that the usual models of ethical decision making are based on both characteristics of the individuals and context. In considering the interaction between the negotiators, they introduce a third element which is the adaptation to the other party. Deception, in that sense, can be initiated or elicited. Therefore, they tested the use of deception depending on several variables: the perceived trustworthiness of the other party, the level and mutuality of dependency, and high positive or negative affect.

Triandis & al (2001) have studied the link between culture and the use of deception. They show that even if the situation and the level of stakes will influence people in their tactical choices and that cultures are never static, the appreciation of what is a lie or to what extent it can be used differs from one culture to another. A study by Olekalns and Smith (2007) shows that referent groups (cultural groups) are very important in the decision regarding the use of deception. The anticipation of moral approbation is therefore fundamental in the use of information that could be considered as unethical.

Rivers and Lytle (2007) explain that being confronted to unethical practices is especially difficult when the other party is from a different culture. They demonstrate how culture impacts upon each negotiator ethical decision making.

Further searches regarding the exchange of specific information in the negotiation process in regards to cultural differences should also concentrate on how cultural values influence the level of intangible stakes and therefore lead to the use of threats.

B) Threatening

Threats can be considered in three different approaches: decision making, communication and commitment.

In the first case, the most important task is to evaluate the costs and results of the use of threats with their probabilities for both sides in the negotiation. Participants will then decide on the use and the force of threats depending to their expectations and the consequences of using it.

The second approach considers the interpersonal relation and specially the exchange of arguments. Watzlawic (1976) describes three conditions for the use of any threat:

The threat must be adequately serious, plausible in order to be taken into account by the other party. Then it must reach the target, must be understood by the other party. Finally, the receiver must be able to comply.

In the last approach, according to Schelling (1966), threats reveal the commitment of the negotiator. The more the threat needs the actor to be committed in order to execute it the more it is going to be credible. The use of threats is a way to force the other participant to deliver useful information regarding his position of power and options. The power of commitment as exposed by Schelling (1966) can be revealed by the kind of threats used by the negotiator.

Schelling (1966) distinguishes two types of threats: compelling ones which require a specific action to avoid punishment or deterrent threats which tend to prevent the target from doing something. Sinaceur and Neale (2005) bringing the question of the effectiveness of

threats in negotiations consider two dimensions: the degree of implicitness and the timing (the time when the threat is expressed).

For most actors in negotiation, threats are considered as a possibility linked to a specific interaction and as a tactic of pressure that brings effects. Threats and promises can be considered quite similar in the sense that they are both conditional and two sides of a same reality: forcing a decision. But depending on how things are formulated, a positive impact will follow the use of a promise while a negative one will be the consequence of a threat.

Threats have a tendency to increase the conflict on an individual basis and when they don't produce the immediate expected effect, they initiate counter measures and damage significantly the level of trust in the relationship.

Perceptions, visions, and practices

A study made by Lewicki and Robinson (1998) demonstrates that the use of a specific tactic depends on each negotiator's perception of the ethical appropriateness of it. This perception differs depending on personal characteristics like age, gender, nationality, ethnic origin but also the personal conception of negotiation as a competitive or cooperative process. This multiplicity of factors makes that each ethical choice becomes specific to a situation. Individuals will vary their practices and orientation depending on situational contingencies (Volkema, 1997). The "best" ethical action is not based on pre-existing values but upon the specifics of the action choice (Barnett and Karson, 1987). As explained by Barnett and Karson, there is a difference between what people say they would do with what they do. This lack of consistency forces to consider an ethical relativism in people's actions with an impossibility to be predictive.

Nevertheless, in the difficult decision making process regarding which ways and means will be best or the most appropriate and guarantee success, individuals refer unconsciously to norms and practices learned within the group they belong to.

As expressed by Kluckhohn and Strodbeck (1961), Culture is a set of solutions to specific and universal problems. By providing unconsciously answers to the uncertainty of new situations it becomes a powerful decision making tool in order particularly to divide between what is good, bad, acceptable, tolerated or not. Culture is a strong link between individuals and society. In this social process, negotiators evaluate their own actions in reference to the groups they belong to but most of the negotiators are quite unaware of how much their cultural norms and values influence their own vision and practices.

As shown in figure n°1 in what we call a "world of interpretation", the sources of influence of a negotiator's choice in terms of practices and tactics are numerous.

Still the confrontation between these practices and the initial vision ("world of representation") of how to manage conflict through negotiation can reveal sometimes many contradictions. Within all the factors influencing the vision of what is negotiation and the ways to perform it, many that can be considered either as internal (characteristics of the person) or external (the context) will contribute to shape the negotiator's perception of the situation and the evaluation of the relationship.

The choice of unethical practices even if leading to more conflict and poor results is often justified by the uncertainty of the situation and the moves or ways of the other party.

Yet, it places the negotiator in a difficult position in regards to his own set of beliefs and values unless it is based on a total absence of morality. But the "world of representation" as we display it in the following figure is the one that we share with other members of the groups we belong to. Considering that negotiation is the only situation with its own rules where people can be different from any other social activities might be wrong.

The remaining question is about deterring unethical tactics. In a recent study, Cohen (2010) shows that there is a difference between "perspective taking" and "empathy". Completing Sebenius' advice to take into consideration the other side's problem (2001), Cohen explains that empathy which is "an emotional response that involves considering the feelings of others" encourages cooperation and stimulates moral action.

People with a tendency for empathy are more likely to disapprove unethical tactics such as manipulating emotions or lying about the progress of negotiations and using deception in order to weaken the opponent.

While perspective taking can be viewed as an integrative tool, enlarging the outcome by taking both participants' interests into consideration, empathy seems to be a tool for preventing at least oneself to unethical moves. As explained by Cohen, these two practices can be complementary.

But how to interpret correctly your counterpart practices and moves?

As expressed by Jönsson (1991), negotiators are facing a constant problem of interpreting signals and drawing assumptions about their counterpart. In order to do so they search for causes and motives. Therefore, attribution theory which purpose is to examine the perceived causes of other persons' behaviour but also the reactions to this behaviour is particularly relevant to the study of negotiation.

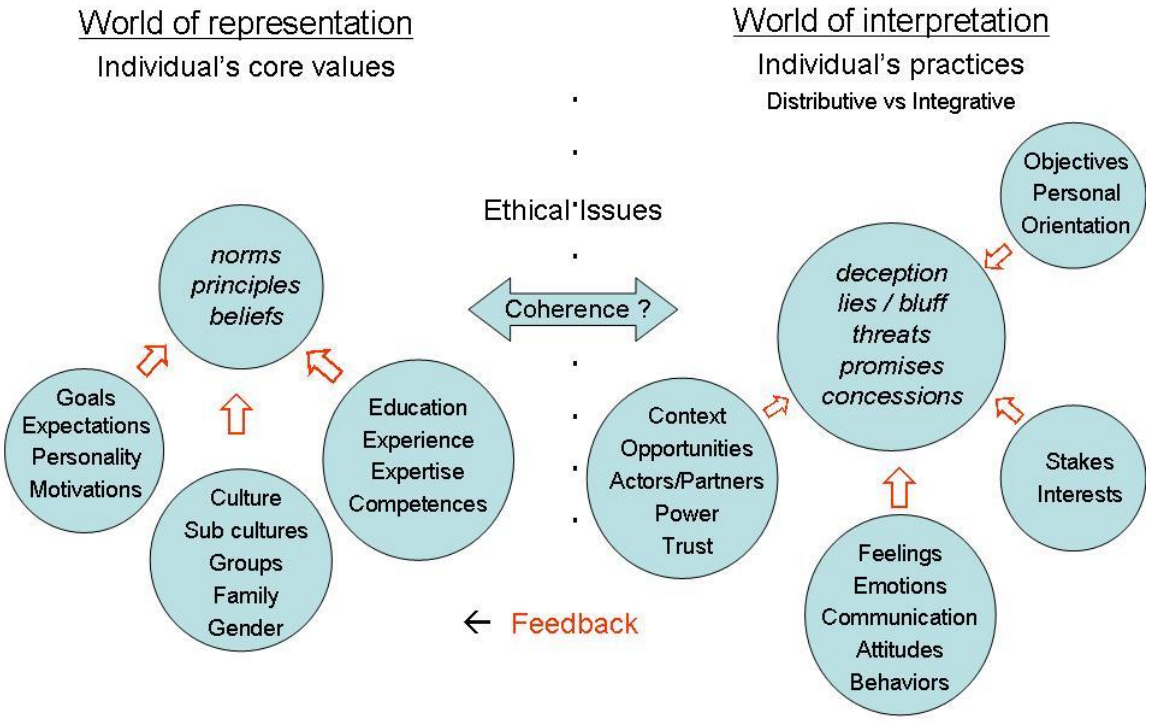


Figure n°1

Attribution theory

Since the publication of Heider's book (1958) many theories have developed regarding how people make causal explanations and interpret events related to ours or other's behaviors. According to Heider, we generally explain a specific behavior in two manners: it can be attributed to the person or to the situation (the environment of the person).

Criticism came from Malle (1999), showing that since Heider (1958) and even more with Kelley (1967), there is confusion between intentional and unintentional behaviour. Heider (1958) associated person attributions (the cause of a specific behaviour comes from the person) with intentional behaviour and situation attributions (the cause can be explained by the situation) with unintentional behaviour. For Malle (1999), the distinction between personal and impersonal causality was promising in terms of intentionality. To him, there is a difference between reasons and causes: Reason explanations refer to intentional behaviour while causes explanations refer to unintentional behaviour. Buss (1978) already made a conceptual critique about the use of the terms "cause" or "reason".

To him, causes are that which brings about a change and reasons are that for which a change is brought about. He also distinguishes a behaviour that happens to a person to a behaviour done by a person.

In negotiation, regarding unethical practices and tactics, it might be difficult to believe to unintentional behaviours. From the strategy conceived before the encounter to the tactics used during the process that serves different techniques more or less competitive, it is difficult to consider that the manipulation of information could be totally by accident and unfortunate.

Still if we formulate the question: "How could negotiators be unintentionally unethical in their practices?", we understand that it might depend on the interpretation made by their counterpart based on their own experience, norms or beliefs. For example, as described by Gopalan and Thomson (2003), cultural differences can cause perceptual differences about ethical or unethical behaviours. According to them, these differences are due to differing attributions made about the cause of behaviour.

Malle and Knobe (1997) examined which conditions need to be fulfilled in order to consider a person's behaviour as intentional. They come to the conclusion that five conditions have to be satisfied:

1) The person must have a *desire* for an outcome and 2) *beliefs* about a behaviour leading to that outcome. 3) A resulting *intention* to perform that behaviour, 4) the *skill* to perform that behaviour and 5) the *awareness* of fulfilling the intention while performing the behaviour.

All these conditions are present in negotiation where people expect an outcome (1) and understand that preparation and strategy are important in order to attain it (2), they know that they will have to enter the process personally (3) based on their experience, competence and capacity to convince (4) and will be actors and observers of this process (5).

On this last aspect, Malle & al (2007) show that observers try to make sense of other people's behaviour while actors try to make sense of their own behaviour. This asymmetry, widely accepted in social psychology, is leading to predictions that actors will make more situational attributions and observers more dispositional ones.

In negotiation, actors are not only observers of the results of their own strategy but also of the practices of their counterpart which they evaluate and judge through many criteria.

In addition to the usual distinction between the individual and the environment, our attributions are also driven by motivational and emotional forces.

As showed by Weiner (1985) individuals' attributions have an influence on their behaviours. This relationship is mediated by emotions and Weiner's model (1985) envisages several emotional responses logically related to attributions like anger, pride, shame or even guilt.

To Kelley (1967), attributions decisions regarding behaviour are the result of three main types of information that are collected by the observer:

The first is consensus information, or information on how other people in the same situation and with the same stimulus behave. High Consensus means that a specific behaviour is common in this situation, while an uncommon behaviour in the same situation is considered as Low Consensus information.

The second is Distinctiveness information, or how the individual responds to different stimuli. A behavior is compared to other and dissimilar situations. If the same behaviour occurs in different situations the Distinctiveness is considered as Low while an isolated behaviour linked to a specific situation will be considered as High Distinctiveness. The behaviour is then attributed to the context instead of personal characteristics.

The third is Consistency information, or how frequent the individual's behavior can be observed with similar stimulus but varied situations. High Consistency means that through time a similar or identical behaviour will occur in similar environmental conditions.

From these three sources of information observers make attribution decisions on the individual's behavior as either internal or external. Kelley's major prediction is that the combination of high consensus, distinctiveness and consistency leads to external attribution.

Kelley (1973) extended this vision of internal (the person) or external (the environment) causes with a model of attribution distinguishing two types of environmental causes: stimulus and circumstance.

As explained by Mc Arthur (1972), eight information configurations can be generated from Kelley's model but only a few are discussed by the author only in order to separate internal from external attributions.

According to Kelley (1973), the responsibility for one's actions is attributed to internal or external causes depending upon whether or not the individual behaves differently in diverse situations (distinctiveness) and whether or not others behave similarly in this situation (consensus). People attribute an individual's deviant behaviour to external conditions or causes if this individual behaves "appropriately" in other situations and if other people are behaving or would behave in the same way under the same conditions.

Based on Kelley and Mc Arthur's work, Figure n°2 shows the combinations leading to the three possible causal explanations:

CONSENSUS		DISTINCTIVENESS		CONSISTENCY		CAUSAL EXPLANATION
	Low		Low	High		➔ Person
High		High		High		➔ Stimulus
	Low	High			Low	➔ Situation

Figure n°2

Mc Arthur's contribution (1972) was to discover what causal attributions are facilitated by which combinations of the three kind of information but also to verify if each of the three sources affect causal attribution independently and how they interact with each others.

Other predictions related to the independent effects of the three sources were studied showing that:

- Person attributions are more frequent with Low Consensus than with High Consensus, with Low Distinctiveness rather than High Distinctiveness and also with High than with Low Consistency. To Mc Arthur, Distinctiveness has the greatest effect on person attribution followed by Consistency and finally Consensus information.

The person will be favorably considered as the main source of explanation if his or her specific behaviour is uncommon compared to others (low consensus), then if this behaviour appears in other and dissimilar situations (low distinctiveness) and finally, if it reproduces in similar environmental conditions (high consistency).

- Stimulus attribution will be more frequent with High Consensus, High Distinctiveness or High Consistency. As with person attribution, Distinctiveness comes as the most important information then Consistency and finally Consensus information.

A behaviour that only appears in a specific situation (high distinctiveness), reproduces when the situation is similar (high consistency) and is shared and exercised by others in the same conditions (high consensus) leads to consider a stimulus as the explanation of this behaviour.

- Circumstance attribution is more frequent with High Distinctiveness or Low Consistency than with Low Distinctiveness or High Consistency. Consensus information has a very limited effect on circumstance attribution.

A behaviour that only appears in a specific situation (high distinctiveness), and/or will not reproduce in a similar situation (low consistency) will be attributed to the circumstances no matter if this behaviour is practiced by others or not.

The conclusions brought by Kelley (1967, 1973) and Mc Arthur (1972) lead to several questions regarding the interpretation of unethical practices in negotiation and new hypothesis for research.

Bluffing: A High Consensus and High Distinctiveness kind of behaviour?

If we consider bluffing as an inevitable and predictable part of the communication process, then the attributional information related to this practice will be classified as High Consensus. It is expected that the negotiators will act the same way and use the same tactics in order to protect their interests and the balance of power.

But it probably doesn't imply that most of the negotiators will carry on bluffing in everyday's situations, especially if these situations don't reveal a high level of stakes, a very conflicting issue or a promising outcome. Therefore, we could consider that bluffing will be interpreted as a High Distinctiveness kind of information in the attribution process.

With a High Consistency?

As we have seen, how negotiators manipulate information can determine their chances to succeed. Why would negotiators decide to totally be honest in this process when they know that their counterpart is probably deceiving them on many aspects of the negotiation?

In similar situations, negotiators will have a tendency to use the same methods, tactics especially if it proved to be successful.

The first problem with this kind of information is to consider single negotiations on a short term basis (one shot) or a long term relationship based on several and frequent negotiations.

A good history of relations produces more trust even if each negotiation (encounter) must be considered a new one in terms of objectives, context, stakes and power. A single negotiation confronts participants with only a few information about their positions and objectives and has more chances to be oriented like a competition.

The interpretation of the other party's practice will be different depending on the existing or non existing history of relations.

The second problem about bluffing is that a good bluff should go unnoticed by the other party.

While any negotiator is aware that his counterpart will never totally and honestly reveal all the information about his objectives, interests or flexibility, the proportion of bluff is sometimes difficult to evaluate. What is an authentic, genuine or legitimate piece of information cannot always be appreciated during the process.

High Consistency would mean that negotiators are facing the same dilemmas about the level of honesty, trust or cooperation based on the information they exchange and as a result they consider that bluffing is an ever reproduced activity in the same situation that is negotiation.

Bluffing, due to internal or external causes?

High Distinctiveness, High Consistency and High Consensus will easily lead to conclude that the interpretation made by a negotiator on the use of bluff by his counterpart will be attributed to the stimulus (the interests, stakes or objectives) and not the situation (the interaction) or the individual (personality).

The uncertainty of the outcome confronted to the objectives and stakes might create a stimulus that forces people who usually don't lie to reveal a new nature in the process. But then, the distinction between the situation and the stimulus is subtle.

Negotiators who consider that bluffing is part of the game (high consensus), can interpret their counterpart attempts to deceived as indications of a high level of stakes or an unfavorable balance of power. If they believe that bluffing is condemnable (low consensus) they can attribute the cause to the situation (object, conflict of interest, context) especially if

they have no information related to previous negotiations with their counterpart (low consistency)

Threatening: A situation of High Distinctiveness and Low Consensus?

As we have seen previously the use of threats in negotiation depends on many conditions which prevent it from being a regular and common practice. Therefore, this practice or tactic will probably initiate a lot of questions about the motivations or causes of its use. The most important attributional information related to this can be Distinctiveness with a ranking that is High due to the fact that threatening might be considered as an isolated act, a last attempt in order to force the decision or to modify the balance of power.

But as negotiation can also be considered as a solving problem process based on finding appropriate solutions for building projects, many negotiators will be reluctant to use this strong and dangerous tool. In that sense, threats could be considered as a Low Consensus piece of information.

With a High or Low Consistency?

Here comes the same problem as with bluffing. If a negotiator successfully uses threats in negotiation, there are many chances that he will reproduce the same tactic (high consistency). But in the case of a long term relationship with several negotiations, why would a negotiator use systematically threats in order to force the decision. Moreover, a negotiator that was submitted to a threat and finally accepted a deal will probably be reluctant to negotiate again with the same counterpart.

Threatening, due to internal or external causes?

A combination of High Distinctiveness, Low Consistency and Low Consensus would call for an attribution to the situation (circumstances). The causal explanation would be that negotiators use threats when they are themselves in a situation that forces them to do so. The high level of competition or the lack of cooperation between the participants implies that power (commitment) should be revealed and exerted.

But if they consider this tactic as very productive and reproduce its use through several identical situations (high consistency), then the combination of High Distinctiveness and High Consistency would reveal a causal explanation that is a stimulus even if the consensus is low.

In consequence, how to interpret the use of a threat?

It might reveal a difficult situation with the necessity to force a decision or a very favourable position in terms of power with a high level of stakes which enables the negotiator to use a coercive measure in order to maximize his interests.

In all cases it is interesting to see that the attribution would never be to the individual itself, a low level of Distinctiveness being difficult to consider; Threatening would then become a way of life!

Conclusion

Even when they consider that negotiation is a situation where being amoral and using practices usually classified as unethical are permitted, negotiators can still be confronted to a counterpart that is pushing the limit of what is tolerable to them.

Participants bring to the table of negotiation more than strategies and tactics in response to a specific situation with clear goals and objectives. They also enter the process with norms, values and beliefs that can differ from the other party but will influence their perception of the situation. The confrontation between these values and the practices that they feel they should use or the ones used by their counterpart, is sometimes adding to the common negotiator's dilemmas.

What could be considered as an "ethical negotiation"?

A proposed answer would be: When participants are willing to find a fair solution with honesty by exchanging information in a moral and social acceptable manner without abusing their power.

The vision of what is negotiation and what are the rules is based on each participant perception. Negotiators evolve in a world of meanings shaped by context and culture and in a very constructivist approach these meanings are elaborated in action, when the negotiators interpret the reality they are facing.

But in this attempt to interpret their counterpart's actions they position themselves as "amateur" scientists (Heider, 1958) using "naïve" or "common sense" psychology based on a distinction between internal and external causes in order to understand these actions.

Why would negotiators want to determine the causal structure of their counterparts' practices and behaviours? Because beyond these practices and the negotiation process there is an outcome that will be appreciated in terms of failure or success. For negotiators, this motivation can sometimes justify many unethical practices even if they don't realize the negative implications of their actions.

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