

NEGOTIATION – THE PRIMARY SKILLS IN CREATING VALUE

**Presented by
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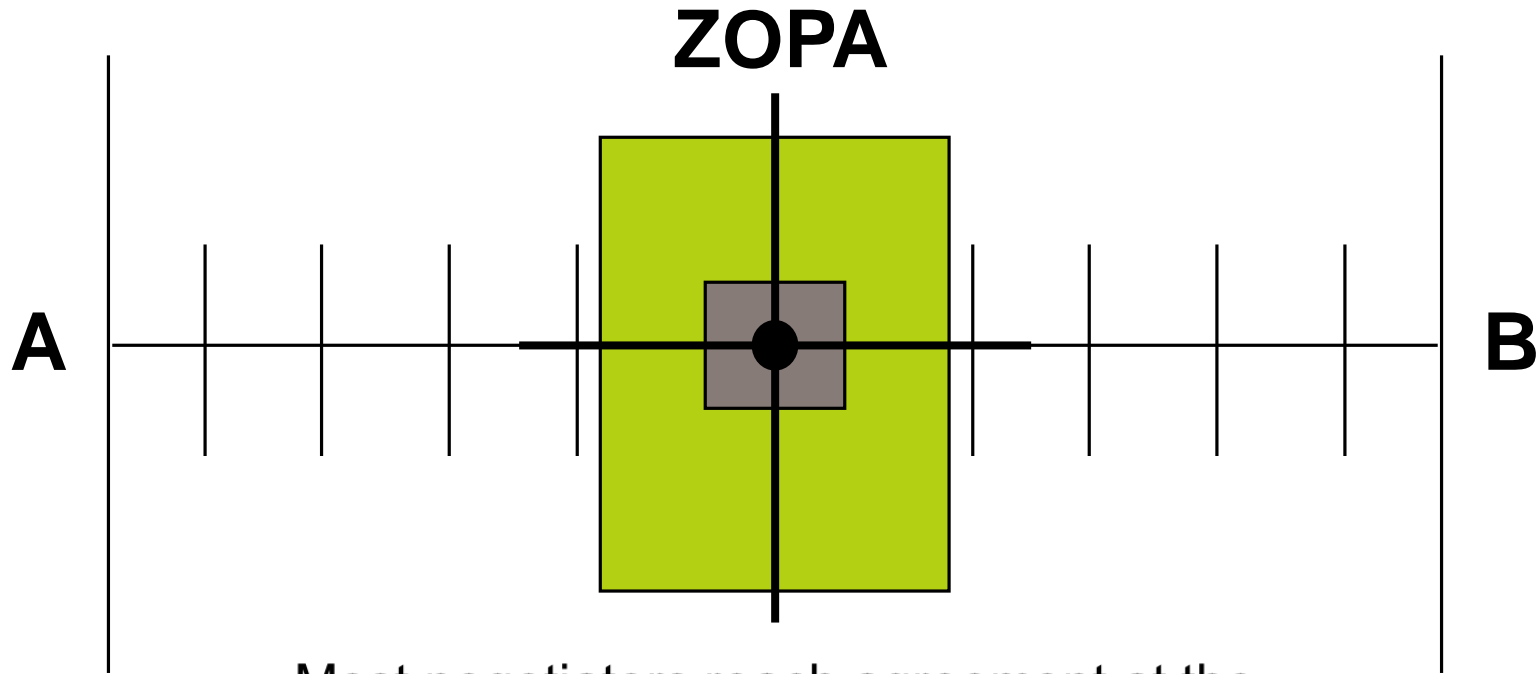
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CREATING VALUE BY NEGOTIATION

- ▶ Every interaction in person, electronic or in writing where you are endeavoring to affect the behavior of another person or another person is trying to affect your behavior is a negotiation. The actual number of negotiations that we are doing in a working day is reflected by the degree of connectivity that we have available to us (laptops, iPad, tablets, iPhones, cell phones, landlines etc.)
- ▶ The overwhelming objective of most negotiations should be to create value (wherever possible)
- ▶ Term created by Adam Smith to reflect creating value in society but adopted by Follett.

MNOOKIN'S THEOREM



Most negotiators reach agreement at the midpoint between the first reasonable offer and the first reasonable counter offer

CREATING VALUE IN NEGOTIATION

- ▶ Most white collar workers will average 150 and 200 "negotiations" in a working day. The primary problem with managing this volume (also referred to as an availability cascade) is that we do it quickly and therefore default to System 1 thinking.
- ▶ System 1 thinking is primarily distributive (instinctive, intuitive, gut feel) and in the long term less effective than integrative bargaining.
- ▶ System 1 thinking has a high error rate.
- ▶ It also minimizes the ability to create value.

CREATING VALUE IN NEGOTIATION

- ▶ The true and overarching purpose of negotiation is to create value not simply to distribute value

CREATING VALUE IN NEGOTIATION

- ▶ Therefore to understand negotiation and to know how to create value we need to understand the mechanics of negotiation and learn about a number of things:
 1. Managing the principal tensions in negotiation
 2. The degree of complexity of our day to day negotiations at work
 3. The seven elements of negotiation

CREATING VALUE IN NEGOTIATION

4. Avoid the major mistakes made by negotiators in day to day negotiations
5. The available negotiating styles that we have out our disposal when we negotiate without defaulting to unethical or inappropriate styles
6. A disciplined platform by which we can manage our significant negotiations so that we do so in a way that has the potential to maximize value wherever it is available

THE VOCABULARY OF NEGOTIATION IS COMMON

1. Thinking outside the square
2. Increasing the size of the pie
3. Talking turkey
4. Being in the ballpark
5. Singing from the same hymn sheet
6. Being on the same page

34 CHARACTERISTICS OF AN EFFECTIVE NEGOTIATOR

Score

1. Preparation and planning skill

2. Knowledge of the subject

3. Ability to think clearly and rapidly under pressure and uncertainty

4. Ability to express thoughts verbally

5. Listening skill

6. Judgement and general intelligence

7. Integrity

8. Ability to persuade others

9. Patience

10. Decisiveness

34 CHARACTERISTICS OF AN EFFECTIVE NEGOTIATOR

11. Ability to win respect and confidence of opponent
12. General problem-solving and analytical skills
13. Self-control, especially of emotions and their visibility
14. Insight into others' feelings
15. Persistence and determination
16. Ability to perceive and exploit available power to achieve objective
17. Insight into hidden needs and reactions of own and opponent's organisation
18. Ability to lead and control members of own team or group
19. Previous negotiating experience
20. Personal sense of security

34 CHARACTERISTICS OF AN EFFECTIVE NEGOTIATOR

21. Open-mindedness (tolerance of other viewpoints)
22. Competitiveness (desire to compete and win)
23. Skill in communicating and co-ordinating various objectives within own organisation
24. Debating ability (skill in parrying questions and answers across the table)
25. Willingness to risk being disliked
26. Ability to act out skillfully a variety of negotiating roles or postures
27. Status or rank in organisation
28. Tolerance to ambiguity and uncertainty
29. Skill in communicating by signs, gestures and silence (non-verbal language)

34 CHARACTERISTICS OF AN EFFECTIVE NEGOTIATOR

Score

30. Compromising temperament

31. Attractive personality and sense of humour (degree to which people enjoy being with the person)

32. Trusting temperament

33. Willingness to take somewhat above-average business or career risks

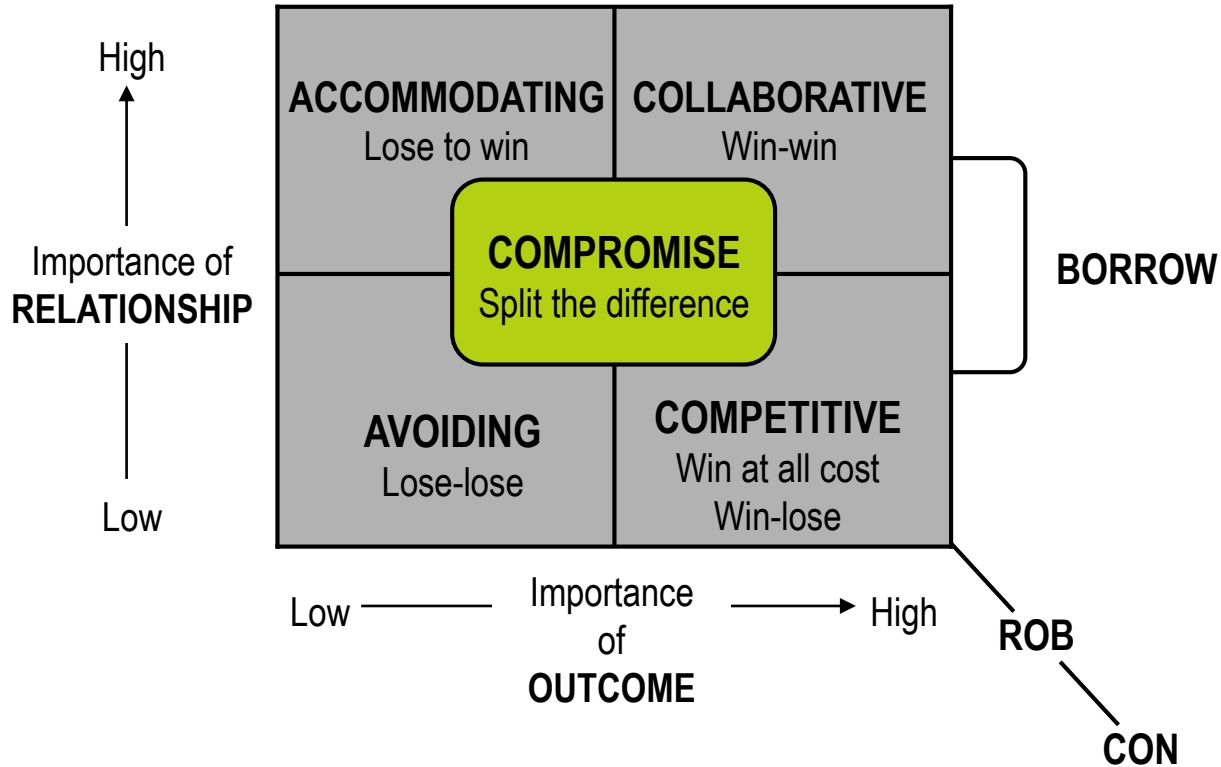
34. Willingness to employ force, threat or bluff

1st column	
2nd column	
Total	

CREATING VALUE IN NEGOTIATION

- ▶ Therefore to be able to adapt to the situation and enhance relationships we need to be able to adopt 5 ethical styles of negotiation. These are as follows:
 - » An accommodating style (lose to win)
 - » A collaborative style (win/win)
 - » A compromising style (splitting the difference)
 - » An avoiding or withdrawing style (lose/lose)
 - » A competitive style (win at all costs, win/lose)

SELECTING A STRATEGY



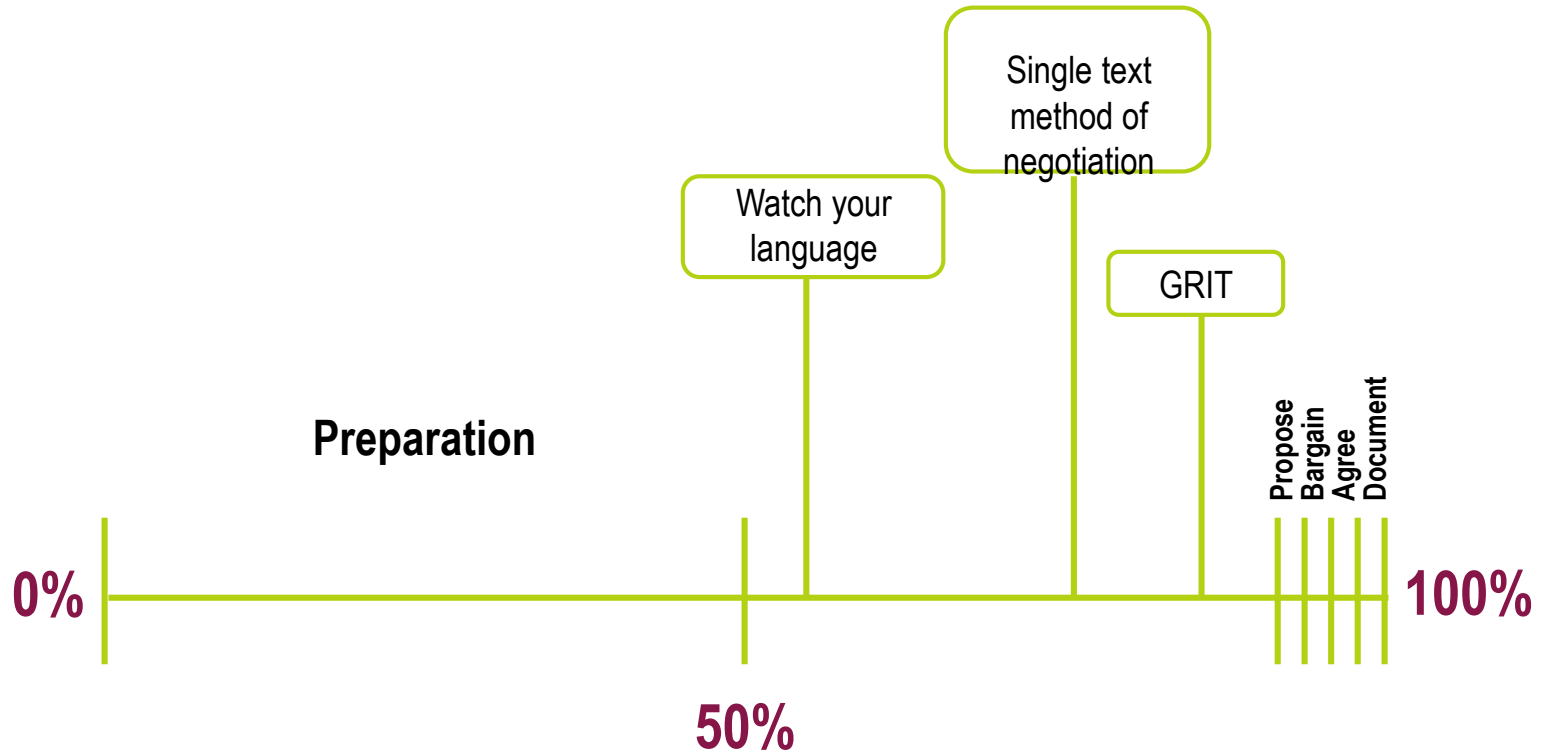
CREATING VALUE IN NEGOTIATION

- ▶ There are only two things that will stop you reaching a conclusion:
 - A. An impasse (no movement at all)
 - B. Uncontrolled escalation, significant exaggerated movement and the negotiation goes off the rails

CREATING VALUE IN NEGOTIATION

- ▶ Therefore a skilled negotiator will always seek to achieve slow, forward, controlled momentum (the ratio of movement)
- ▶ All negotiations that achieve a conclusion follow the steps set out below in the next slide

PREPARATION



CREATING VALUE IN NEGOTIATION

- ▶ What are the seven elements of negotiation? (Understanding these will tell us where to go when we seek to create value):
 1. Relationship
 2. Communication
 3. The interests of the parties
 4. Options
 5. Legitimacy
 6. Commitments
 7. Alternatives

SEVEN ELEMENTS OF NEGOTIATION (SCORESHEET)

Klug Health Check Checklist (Part of Preparation Process)

	Question	Score out of 5 (5 Best - 0 Worst)	Notes
1. Relationship	Value of having an ongoing relationship (Nil = 0 - Max = 5)		
2. Communication	How effective or how important is this? (Nil = 0 - Max = 5)		
3. Interests	Have I properly identified these? (both sides - pre or during negotiation) (Asymmetry = 0 - Symmetry = 5)		
4. Options	What, if any, are there within the negotiation itself? (Nil = 0 - Max = 5)		
5. Legitimacy	Is what I am doing legitimate? (Viz lawful / ethical) (Unlawful = 0 - Ethical / Lawful =5)		
6. Commitments	Do I need to document the deal? (No = 0 - Yes = 5)		
7. Alternatives	Do I have alternatives other than to negotiate with the counterparty / counterparties? (Nil Alternative = 0 - Max = 5)		

35 Perfect Preparation

28+ Satisfactory

21+ Fine Tuning Required

21- Unsatisfactory

AN UNCONDITIONALLY CONSTRUCTIVE STRATEGY

Do only those things that are both good for the relationship and good for us – whether or not they reciprocate

Rationally	Even if they are acting emotionally, balance emotions with reason
Understanding	Even if they misunderstand us, try to understand them
Communication	Even if they are not listening, consult them before deciding on matters that affect them
Reliability	Even if they are trying to deceive us, neither trust them nor deceive them: be reliable
Non-coercive modes of influences	Even if they are trying to coerce us, neither yield to that coercion nor try to coerce them, be open to persuasion and try to persuade them
Acceptance	Even if they reject us and our concerns as unworthy of their consideration, accept them as worthy of consideration, care about them and be open to learning from them

VALUE CREATING

- ▶ What does value creating mean?
 - » It usually means "the parties are better off by making an agreement than they would be in the absence of an agreement"
 - » It should mean generating a lifetime credit balance
- ▶ Green Credit Theory

TRADITIONAL VALUE CREATION OPPORTUNITIES

1. Shared interests
2. Reducing transaction costs
3. Differences in priorities
4. Differences in timeframe requirements
5. Differences in prediction
6. Differences in capabilities

This traditional list is too restrictive

CREATING VALUE IN NEGOTIATION

- ▶ There are only four methods of resolving conflicts (Mary Parker Follett) - "The New State":
 - a) Voluntary submission of one side to the other
 - b) Struggle and victory of one side over the other
 - c) Compromise
 - d) Integration

(This is the foundation of the theory of interest based bargaining which is the platform used by The Program on Negotiation at Harvard)

GREEN CREDIT THEORY

1. Short term credits (Intra negotiation)
2. Medium term credits (Long term repetitive or rolling negotiations, such as joint ventures, marriage, professional partnerships) – give and take credits
3. Long term credits
 - a) Personal qualities and characteristics
 - b) Professional or trade based skills (the rude surgeon example)
 - c) Spikes of excellence (can be outcome based or relationship based) – these are virtually unlimited
4. Credits are bankable and can be set off against debits

GREEN CREDIT THEORY (CONTINUED)

5. Not only are you creating value, but by banking it, you can draw down on your balance when needed
6. Most negotiations theorists focus on short term or intra negotiation preferences – this is too narrow and ignores the obvious fact that negotiation is a whole of life cycle enterprise

NEGOTIATION SKILLS TRAINING PROGRAM

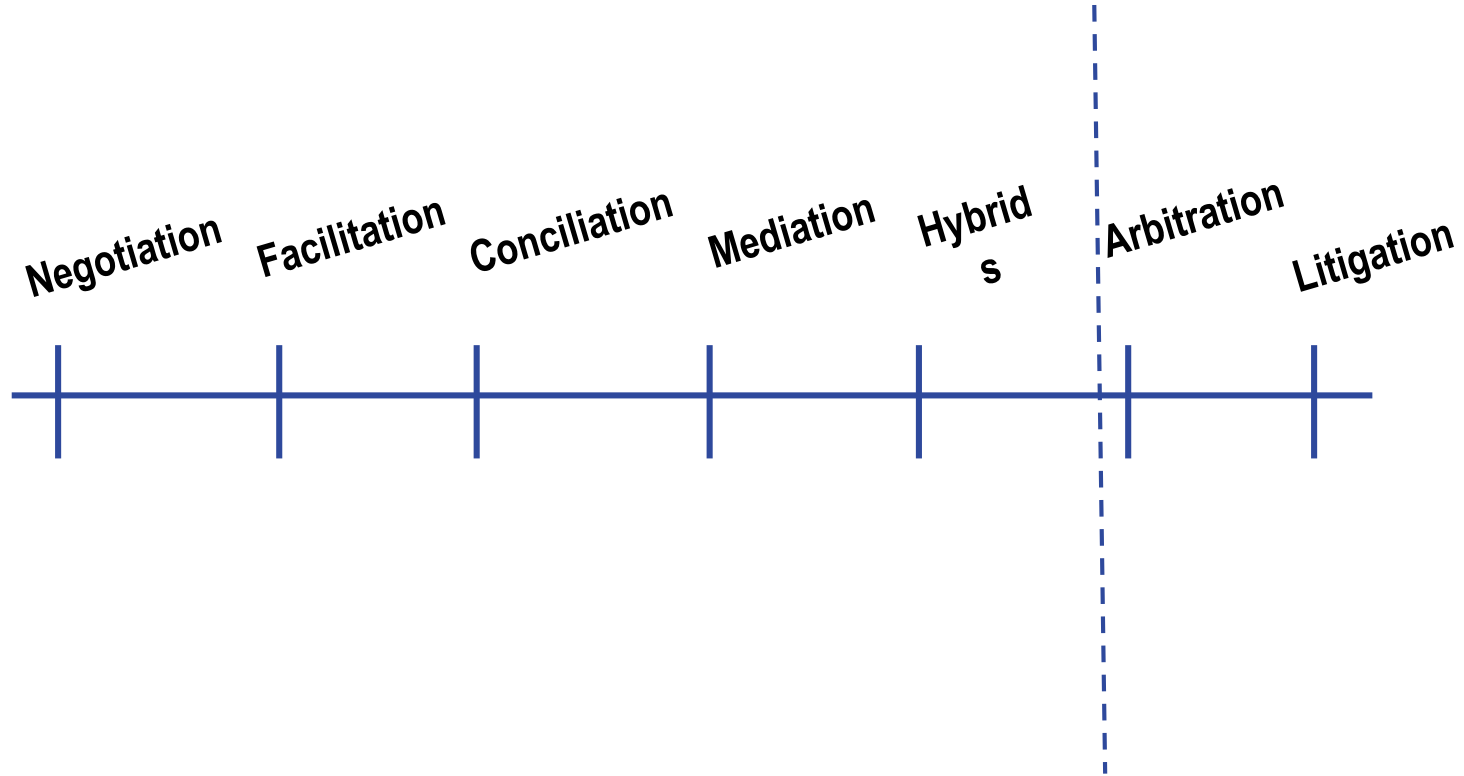
- ▶ For details of Michael Klug's two-day Intensive Negotiation Skills workshop, please contact us:
 - » Tel: 1800 882 110
 - » Email: client.training@claytonutz.com
 - » Website: www.claytonutz.com/cu-training

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FURTHER READING

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SELF-MANAGED OUTCOMES



CREATING VALUE IN NEGOTIATION (OR MUTUAL GAINS BARGAINING)

- ▶ Where long term relationships are important parties to a dispute or a negotiation should seek wherever possible to adopt the integrative negotiation model, or mutual gains bargaining

INTERESTS

- ▶ To make sense of a negotiation one must first understand all of the parties' interests
- ▶ Interests are highly variable and may include the following:
 - a) Cost
 - b) Time
 - c) Quality

INTERESTS

- ▶ But may also include less tangible aspects such as:
 - d) Precedent
 - e) Reputation
 - f) Fairness
 - g) The relationships between the party (ies)
- ▶ The connections between positions on issues and true interests are rarely simple

INTERESTS

- ▶ Focusing on deeper interests can often unblock a stubborn impasse over positions that relate only partially to the parties' real concern.

MUTUAL GAINS BARGAINING – MAIN ASSUMPTION

- ▶ Mutual gains bargaining is based on four principles:
 1. separating the people from the problem
 2. focusing on interests not position
 3. inventing options for mutual gain
 4. insisting on objective criteria

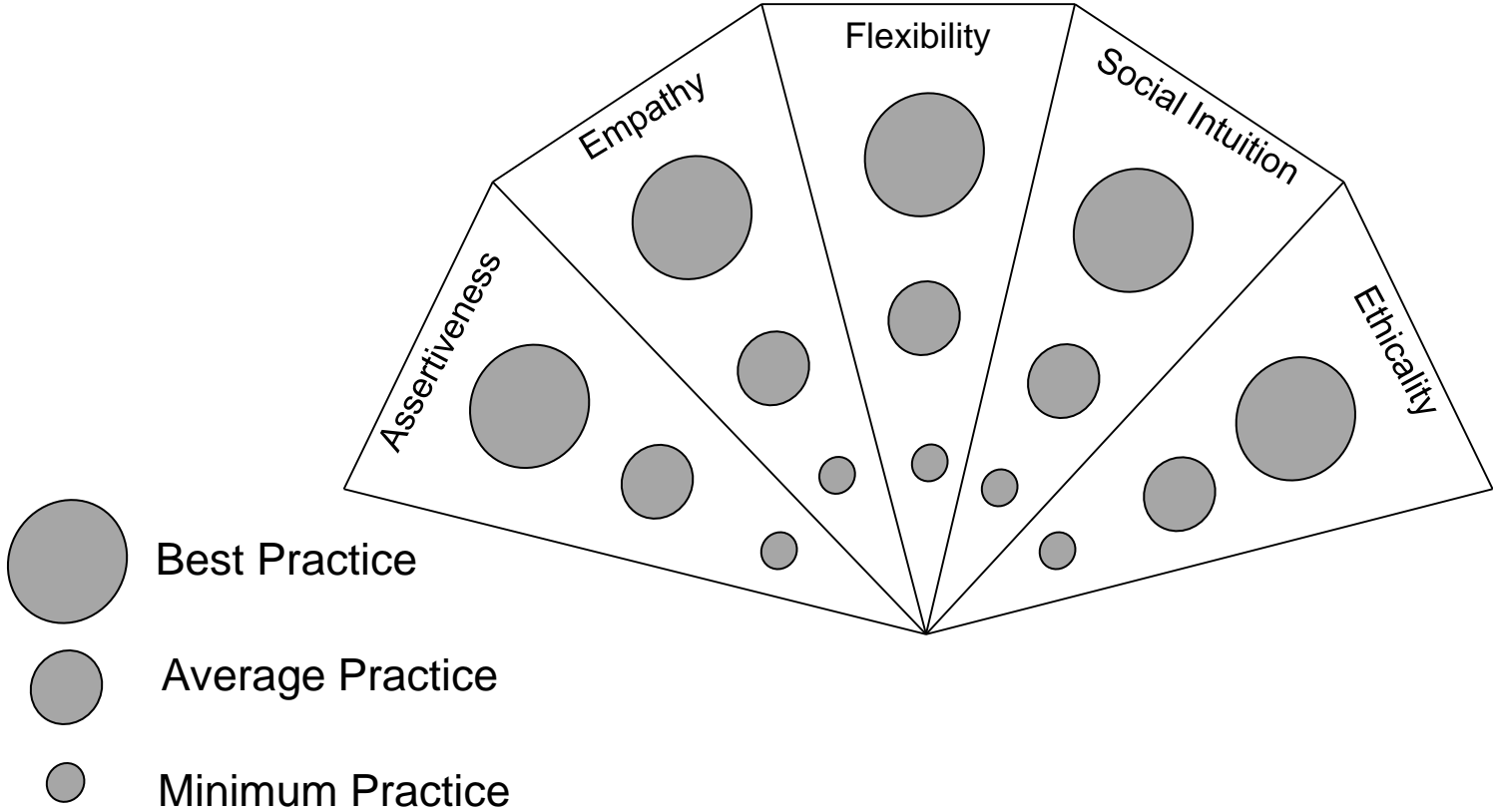
CHARACTERISTICS OF THE TRUE PROBLEM SOLVER

- ▶ True problem solvers were perceived as being strong in three significant areas:
 1. Assertiveness
 2. Empathy
 3. Flexibility
 4. Ethical behavior
 5. Friendly, warm personality

SOCIAL INTUITION

- ▶ The most common source of short term value creation relates to the "differences" in valuation between the parties
- ▶ The acolytes of the simple win/win theory of negotiation believe that creating value always relates to common interest shared by both sides
- ▶ In fact characteristically, differences in preferences, valuations, predications about the future and risk preferences for your value creating opportunity

NEGOTIATION ORIGAMI



CREATING VALUE IN NEGOTIATION

- ▶ The principal tensions that we manage in negotiation are as follows:
 1. The tension between principal and agent
 2. The tension between empathy and assertiveness
 3. The tension of managing time or deadline pressure
 4. The tension of trying to achieve a win/win outcome (whether we create value not just distribute value)
 5. The tension of trying to achieve synchronicity of behavior
 6. The tension of asymmetry of information

CREATING VALUE IN NEGOTIATION

- ▶ In negotiations there are only two primary variables:
 - » How important is the relationship in this negotiation?
 - » How important is the outcome?
- ▶ Those two variables immediately show why we negotiate differently domestically from the way we negotiate at work.

RELATIONSHIPS

FIVE CORE CONCERNS

Core concerns	The concern is ignored when...	The concern is met when...
Appreciation	Your thoughts, feelings, or actions are devalued.	Your thoughts, feelings, and actions are acknowledged as having merit.
Affiliation	You are treated as an adversary and kept at a distance.	You are treated as a colleague.
Autonomy	Your freedom to make decisions is impinged upon.	Others respect your freedom to decide important matters.
Status	Your relative standing is treated as inferior to that of others.	Your standing where deserved is given full recognition.
Role	Your current role and its activities are not personally fulfilling.	You so define your role and its activities that you find them fulfilling.

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