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ADR Empirical Research Studies

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ADR Empirical Research Studies (Summer 2013-Fall 2020)

James Coben

Mitchell Hamline School of Law, james.coben@mitchellhamline.edu

Donna Stienstra

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ADR Empirical Research Studies (Summer 2013-Fall 2020)

James Coben, Professor, Mitchell Hamline School of Law (james.coben@mitchellhamline.edu)

Donna Stienstra, Senior Researcher, Federal Judicial Center (dstienst@fjc.gov)

Beginning in summer 2013, we have co-edited *Research Insights*, a regular column in the American Bar Association's DISPUTE RESOLUTION MAGAZINE (DRM). Twice a year we choose 10-12 empirical research studies relevant to ADR professionals and publish the citation and abstract. To compile the longer list from which we choose our subset for publication in the column, we've cast a fairly wide net looking for published research in a variety of fields, including social psychology, cognitive science, consumer research, law, economics, sociology, and political science. We know we haven't captured every empirical study published in the last seven years, but the current list has grown quite large – now in excess of 500 entries.

We're hoping you (and/or your students) might find our list helpful for your own research, teaching/training, and writing projects. We've organized them here by topic¹ (and within topic, by year published [most recent first]), providing citation, the published abstract, and the DRM issue in which the abstract was published. We'll be updating the list twice a year (you can always find the most current version on the Mitchell Hamline Dispute Resolution Institute website [http://open.mitchellhamline.edu/dri_empirical/]). In the meantime, if you notice a relevant empirical research study that we've omitted, please let us know and we'll add it to the list. Thanks!

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¹ To keep the list length manageable, we've listed each study only once (notwithstanding we recognize that quite a few might be relevant in multiple categories).

To Be Or Not To Be Sorry? How CEO Gender Impacts the Effectiveness of Organizational Apologies

Amanda P. Cowen & Nicole Votolato Montgomery

Journal of Applied Psychology 105(2): 196–208 (February 2020)

We examine whether consumer reactions to a product failure are affected by the gender of the CEO to whom the organization's postfailure communications are attributed. We find that CEO gender and response type interact to affect both consumers' perceptions of the organization, and their propensity to purchase from it following a product failure. Specifically, consumers' reactions to unqualified apologies versus other types of accommodative responses do not differ when these responses are attributed to male CEOs. However, unqualified apologies are generally more successful for female CEOs than alternative responses. We show that such differences can be attenuated by increasing perceptions of a female CEO as agentic. We attribute these findings to consumers' perceptions of how fairly they have been treated by an organization in the wake of a failure (i.e., interactional fairness). Our findings contribute to the crisis management literature by demonstrating how personal characteristics can shape the effectiveness of organizations' crisis response strategies, thereby highlighting one implication of CEOs' growing public visibility. In doing so, our findings also advance research on female CEOs and how gender-based expectations may impact organizational outcomes.

A Long Time Coming: Delays in Collective Apologies and Their Effects on Sincerity and Forgiveness

Michael Wenzel, Ellie Lawrence-Wood, Tyler G. Okimoto & Matthew J. Hornsey

Political Psychology 39(3): 649-666 (June 2018)

Political apologies by one group to another often occur a significant period of time after the original transgression. What effect does such a delay have on perceptions of sincerity and forgiveness? A delayed apology could reflect the offender group's reluctance to apologize, or, alternatively, it could represent time and consideration spent on developing an appropriate response. In the latter case, the delayed apology would represent a sincere acknowledgment of the harm done, whereas in the former case it would not. In two studies, we found that a verbal collective apology, when delayed, was perceived to be less sincere than when offered more immediately following a transgression, and this translated to less forgiveness. However, in Study 2, the negative effects of time delay on sincerity and forgiveness were mitigated or reversed when the apology was in the form of commemoration. The commemorative apology, in particular when delayed, gave rise to favorable attributions (including representativeness of apologizing group, commitment to remember, and giving voice to victims), which mediated the effects on sincerity. The results suggest that collective apologies that are offered with considerable delay appear less meaningful and less deserving of a forgiving response, unless the apologizing group is able to express consideration and thoughtfulness through the apology process.

Prosocial Response to Client-Instigated Victimization: The Roles of Forgiveness and Workgroup Conflict

Jonathan D. Booth, Tae-Youn Park, Luke (Lei) Zhu, T. Alexandra Beauregard, Fan Gu & Cécile Emery

Journal of Applied Psychology 103(5): 513-536 (May 2018)

We investigate forgiveness as a human service employee coping response to client-instigated victimizations and further explore the role of workgroup conflict in (a) facilitating this response, and (b) influencing the relationship between victimization and workplace outcomes. Using the theoretical lens of Conservation of Resources (Hobfoll, 1989), we propose that employees forgive clients—especially in the context of low workgroup conflict. From low to moderate levels of client-instigated victimization, we suggest that victimization and forgiveness are positively related; however, this positive relationship does not prevail when individuals confront egregious levels of victimization (i.e., an inverted-U shape). This curvilinear relationship holds under low but not under high workgroup conflict. Extending this model to workplace outcomes, findings also demonstrate that the indirect effects of victimization on job satisfaction, burnout, and turnover intentions are mediated by forgiveness when workgroup conflict is low. Experiment- and field-based studies provide evidence for the theoretical model.

An Exploration of the Structure of Effective Apologies

Roy Lewicki, Beth Polin & Robert Lount, Jr.

Negotiation and Conflict Management Research 9(2): 177–196 (May 2016)

Violations of trust are an unfortunate but common occurrence in conflict and negotiation settings: negotiators make promises that they do not keep; parties in conflict behave in unexpected ways, escalating tensions and breaking past trust. What often follows these violations is some form of an account, specifically an apology, in an effort to repair that trust. But are some apologies more effective than others? Two studies reported here examine the structural components of apologies. Six components of an apology were defined from previous research and presented to subjects—singly and in combination—in the form of component definitions and in the context of a trust violation scenario. Results indicate that not all apologies are viewed equally; apologies with more components were more effective than those with fewer components, and certain components were deemed more important than others. Moreover, apologies following competence-based trust violations were seen as more effective than apologies following integrity-based violations. Implications and future directions for research in the structure of effective apologies are presented. [DRM Summer 2016]

Forgiveness is Not Always Divine: When Expressing Forgiveness Makes Others Avoid You

Gabrielle Adams, Xi Zou, M. Ena Inesi & Madan M. Pillutla

Organizational Behavior and Human Decision Processes 126: 130–141 (2015)

Organizational scholars have recently become interested in forgiveness as a way to resolve workplace conflicts and repair relationships. We question the assumption that forgiveness always has these relational benefits. In three studies we investigated participants' responses to people who expressed forgiveness of them versus those who did not. We found that when the ostensible transgressor did not believe he or she had committed a wrongdoing, expressing forgiveness damaged the relationship relative to a control condition. This effect occurred when participants were made to believe that a real person had forgiven them (Studies 1 and 2) and when they imagined a co-worker had forgiven them (Study 3). Furthermore, in the

absence of wrongdoing, participants' perceptions of the forgiver as self-righteous mediated the effect of forgiveness on avoidance of forgivers (Studies 2 and 3). We discuss implications for conflict management.

Apologies Demanded Yet Devalued: Normative Dilution in the Age of Apology

Tyler G. Okimoto, Michael Wenzel & Matthew J. Hornsey

Journal of Experimental Social Psychology 60: 133-136 (September 2015)

Dramatic increases in the issuance of political apologies over the last two decades mean that we now live in the “age of apology”. But what does this surge in frequency mean for the effectiveness of intergroup apologies in promoting forgiveness? In the current research we propose a paradoxical “normative dilution” effect whereby behavioral norms increase the perceived appropriateness of an action while at the same time reducing its symbolic value. We experimentally manipulated the salience of the age-of-apology norm prior to assessing participant (N = 128) reactions to past unjust treatment of ingroup POWs by the Japanese during WWII. The apologetic norm increased victim group members' desire for an apology in response to the harm. However, after reading the actual apology, the invocation of the norm decreased perceived apology sincerity and subsequent willingness to forgive. Thus, although apologetic trends may suggest greater contemporary interest in seeking reconciliation and harmony, their inflationary use risks devaluing apologies and undermining their effectiveness.

Saving Face? When Emotion Displays During Public Apologies Mitigate Damage to Organizational Performance

Leanne ten Brinke & Gabrielle S. Adams

Organizational Behavior and Human Decision Processes 130: 1-12 (September 2015)

In the wake of corporate transgressions and scandals, how do apologizers' expressed emotions affect investors' perceptions of the organization in question? We analyzed the market effects of normative versus deviant facial affect expressed during apologies for corporate wrongdoing. Archival data revealed that the expression of deviant affect was associated with decreased investor confidence in the form of negative stock market returns; adverse financial effects persisted up to three months post-apology. Moreover, this effect was exacerbated when a company representative with greater responsibility within the organization delivered the apology. Experimental data further revealed that third parties interpreted deviant affect (smiling) as a signal of insincerity, which reduced their confidence in these representatives' organizations. Ultimately, we find that subtle emotion expressions are detected by stakeholders, signal insincerity, and have important consequences for organizations. We suggest that organizations must carefully consider the nonverbal behavior of apologetic representatives in the wake of transgressions.

Who Accepts Responsibility for Their Transgressions?

Karina Schumann & Carol S. Dweck

Personal Social Psychology Bulletin 40(12): 1598-1610 (December 2014)

After committing an offense, transgressors can optimize their chances of reconciling with the victim by accepting responsibility. However, transgressors may be motivated to avoid admitting fault because it can feel threatening to accept blame for harmful behavior. Who, then, is likely to accept responsibility for a transgression? We examined how implicit theories of personality—whether people see personality as malleable (incremental theory) or fixed (entity

theory)—influence transgressors’ likelihood of accepting responsibility. We argue that incremental theorists may feel less threatened by accepting responsibility because they are more likely to view the situation as an opportunity for them to grow as a person and develop their relationship with the victim. We found support for our predictions across four studies using a combination of real-world and hypothetical offenses, and correlational and experimental methods. These studies therefore identify an important individual difference factor that can lead to more effective responses from transgressors.

An Affirmed Self and a Better Apology: The Effect of Self-Affirmation on Transgressors' Responses to Victims

Katrina Schumann

Journal of Experimental Social Psychology 54: 89-96 (September 2014)

Comprehensive apologies are powerful tools that transgressors can use to promote reconciliation with the people they have hurt. However, because many apology elements require transgressors to admit fault, express shameful emotions and promise change, transgressors often avoid these threatening elements and instead choose to use more perfunctory apologies or even defensive strategies, such as justifications or attempts to blame the person they hurt. In two studies designed to increase apology comprehensiveness and reduce defensiveness using self-affirmation, the author predicted that self-affirmation would help transgressors maintain their self-integrity, consequently allowing them to offer more comprehensive apologies and bypass defensive strategies. Participants received a values affirmation, recalled an unresolved conflict, and indicated what they would say to the person they had hurt. As predicted, affirmed participants offered more comprehensive apologies and used fewer defensive strategies than control participants. These studies thus identify a simple method for promoting responses that facilitate conflict resolution and demonstrate the successful application of self-affirmation to the domain of interpersonal conflict. [DRM Winter 2015]

Bankrupt Apologies

Jennifer K. Robbennolt & Robert M. Lawless

Journal of Empirical Legal Studies 10(4): 771-796 (December 2013)

Apologies result in better outcomes for wrongdoers in a variety of legal contexts. Previous research, however, has primarily addressed settings in which a clear victim receives the apology. This research uses experimental methods to examine the influence of apologies on a different kind of legal decision—the decision of a bankruptcy judge to confirm or not to confirm a proposed repayment plan. This article expands examination of apologies to a legal setting in which there is no clear “victim” and to decisions of a neutral (nonvictim) decisionmaker. We find that judges' assessments of debtors were influenced by apologies. These assessments, in turn, affected judges' confirmation decisions. [DRM Summer 2013]

The Apology Mismatch: Asymmetries Between Victim’s Need for Apologies and Perpetrator’s Willingness to Apologize

Joost M. Leunissen, David De Cremer, Christopher P. Reinders Folmer & Marius van Dijke

Journal of Experimental Social Psychology 49(3): 315-324 (May 2013)

Are apologies delivered when victims desire them? Little is known about the congruence between a perpetrator’s willingness to apologize and a victim’s desire to receive an apology. In three experiments, using student and employee samples, we showed that victims mainly desire

an apology after intentional transgressions, whereas perpetrators want to offer an apology particularly after accidental transgressions. These results point to an apology mismatch: perpetrators and victims have divergent ideas on when an apology is necessary. The intentionality of the transgression triggered unique emotions in the parties involved, guilt (perpetrators) and anger (victims), which explained these divergent apology needs. This research gives further insights into the difficulties of post-conflict mediation due to these differing emotional reactions towards transgressions, resulting in different standpoints on when an apology should be issued. Moreover, it shows that an apology serves very different goals among perpetrators (restore the relationship) and victims (acknowledgement of injustice). [DRM Summer 2013]

The Impact of a Grievant's Offer of Apology and the Decision-Making Process of Labor Arbitrators: A Case Analysis

Daniel Kaspar & Lamont Stallworth

Harvard Negotiation Law Review 17: 1-59 (Spring 2012)

What impact, if any, does a grievant's offer of apology have on the decision-making process of labor arbitrations in discipline and discharge cases? This study examined a number of arbitration awards over the decades where a grievant offered an apology, showed remorse, asked for forgiveness, etc. The authors compared and contrasted these awards with those where no such offer was made, but an arbitrator made known that he or she might have ruled differently had the grievant done so. In gauging the impact of an apology, the authors also looked to its timing (prior to/during a hearing, etc.). What the authors found may well inform practitioners, arbitrators, employers, and HR consultants, with respect to pre-decisional dispute resolution strategy. Sometimes an acknowledgment of a wrong, coupled with a display of contrition, will go a long way toward breaking down the barriers that are so often an impediment to resolving a dispute. [DRM Summer 2013]

ARBITRATION: GENERAL

Police Arbitration

Stephen Rushin

Vanderbilt Law Review 74: 1-52 (forthcoming 2021)

Before punishing an officer for professional misconduct, police departments often provide officers with an opportunity to file an appeal. In many police departments, this appeals process culminates in a hearing before an arbitrator. While numerous media reports have suggested that arbitrators regularly overturn or reduce discipline, little legal research has comprehensively examined the outcomes of police disciplinary appeals across the United States.

In order to better understand the use of arbitration in police disciplinary appeals, this Article draws on a national dataset of 624 arbitration awards issued between 2006 and 2020 from a diverse range of law enforcement agencies. It finds that arbitrators on appeal reduced or overturned police officer discipline in 52 percent of these cases. In 46 percent of these cases, arbitrators ordered police departments to rehire previously terminated officers. On average, arbitrators reduced the length of officer suspensions by approximately 49 percent.

Arbitrators gave several common justifications for reductions in officer discipline. Frequently, arbitrators found the original discipline to be excessive relative to the offense committed or relative to punishments received by other officers. In a somewhat smaller number

of cases, arbitrators cited insufficient evidence or procedural flaws in the investigation or adjudication of the original internal disciplinary process.

This Article concludes by considering the implications of these findings for the literature on police accountability. It also considers emerging efforts in states like Minnesota and Oregon to reform police arbitration procedures in order to better balance officers' interests in due process with the public's interest in accountability.

Exploring Research Regarding Mediation Party Preferences and Mediation Within Commercial Arbitration

Rebecca Storrow & Harold Coleman Jr

Conflict Resolution Quarterly 37(4): 289-303 (Summer 2020)

Mediation is a valued alternative dispute resolution process in commercial business disputes. When used prior to arbitration or litigation, mediation is helpful in narrowing disputes and supporting settlement. When included as a supplemental step within other processes, mediation has additional benefits. It is worthwhile to explore the barriers and benefits counsel cite regarding mediation. We will consider participants' underlying assumptions surrounding how and when to mediate using American Arbitration Association® (AAA) User Surveys and data from 2,814 AAA cases closed in 2018. Practice and extant literature indicate that early mediation reduces the financial, emotional, and relational costs of business disputes.

Collective Preclusion and Inaccessible Arbitration: Data, Non-Disclosure, and Public Knowledge

Judith Resnik, Stephanie Garlock & Annie Wang

Lewis & Clark Law Review 24(2): 365-431 (2020)

During the last decade, very few individuals filed claims, single-file, in arbitration. Given the success in precluding class actions and the rarity of filings, why are market actors seeking to silence the few who do arbitrate? And are such mandates enforceable by courts? In this article, the authors interrupt these silencing provisions through disseminating information about the rules of and use of arbitration. They track efforts to limit information about arbitration, outline the growing body of law on non-disclosure, and analyze the data about consumer use of arbitration. As the authors note, some jurists have held non-disclosure obligations unenforceable. Yet many decisions condone their imposition despite the repeat-player advantages that accrue to the clauses' drafters, who have access to information that one-shot participants do not have. In addition to information about efforts to silence litigants that can be gleaned from the case law, the authors have also mined materials posted by the American Arbitration Association (AAA), which has complied with state statutes requiring administrators of consumer arbitration to make accessible the number of claims filed and the results.

The picture that emerges is that of the millions of people using services and products, virtually none file individual arbitration claims. Because AT&T succeeded in persuading the US Supreme Court to enforce bans on collective action and require claimants to use the AAA, the authors researched arbitration filings against AT&T. Between 2009 and 2019, when the AT&T wireless services customer base ranged from 85 million to 165 million, about 90 individuals a year filed an arbitration claim. In the partial picture of outcomes that emerges, the median amount awarded to AT&T consumers was \$575. The available data also provide insight into why, given that remarkably low level of claims, providers of services seek to silence the few who are arbitration users. Law firms and other aggregators have begun a market in *de facto* collective

actions by bundling similar claims against individual providers. And outside of courts and arbitration, collective consumer action can seek remedies by putting information into the public realm that can affect purchasing decisions and press for changes in the behavior of service providers and employers. [DRM Winter 2021]

Predictability of Arbitrators' Reliance on External Authority?

Ariana R. Levison, Erin A. O'Hara O'Connor & Paige Marta Skiba
American University Law Review 69: 1827-1882 (2020)

Should arbitrators consider authority—such as statutes or case law—external to the collective bargaining agreement when deciding labor grievances? Do they rely on such external authority? If so, do they do so in particular circumstances or in certain types of cases? To provide more insight on this often-debated issue, we have amassed a new data set of hundreds of labor arbitration awards spanning a decade. In contrast to previous research, we find that the overwhelming majority of awards do not cite to any external authority (statutes, administrative authorities, case law, or secondary sources). Yet, only a small fraction of awards explicitly decline to address a statutory issue or do not address external authority cited by one of the parties and mentioned in the award. Other significant findings: one or both parties being represented by an attorney in the arbitration hearing correlates with citation to external authority. Instances where arbitrators are drawn from the American Arbitration Association or the Federal Mediation and Conciliation Service rosters result in a greater likelihood of citation to authority than when arbitrators are selected without aid of a service provider. Awards addressing claims asserting a breach of a just-cause provision are more likely than other types of contractual claims to cite to external authority. Our new data set differs from prior data sets in that it includes published and unpublished awards and cases decided by industrial boards, enabling broader study of differing types of labor arbitration.

Alpha-Final Offer Arbitration: The Best Way to Avoid Negotiation Failure

Daniel M. Nedelescu

Group Decision and Negotiation 28(6): 1109-1128 (December 2019)

Under the arbitration mechanisms most used in the field, final-offer arbitration and conventional arbitration, the negotiators still do not reach high agreement rates by themselves. This paper presents an experiment to evaluate a new arbitration mechanism: α -Final Offer Arbitration (α -FOA). This mechanism is similar to a second-price auction, which punishes the loser with a value (α) proportional to the difference between her final offer and the arbitrator's fair settlement. The experiment also divides the pool of subjects within a session into two groups according to their estimated risk preferences in order to assess how the contract zone depends on the relative risk preferences of the subjects involved in negotiation. Although agreement rates overall are low, the results show that α -FOA has a significantly higher agreement rate than both conventional arbitration and final-offer arbitration. Contrary to theoretical prediction, the more risk-averse group of subjects does not have a higher agreement rate than the less risk-averse group. [DRM Spring 2020]

Arbitration Nation: Data from Four Providers

Andrea Chandrasekher & David Horton

California Law Review 107: 1-67 (2019)

Forced arbitration has long been controversial. In the 1980s, the Supreme Court expanded the Federal Arbitration Act (FAA), sparking debate about whether private dispute resolution is an elegant alternative to litigation or a rigged system that favors repeat-playing corporations. Recently, these issues have resurfaced, as the Court has decided a rash of cases mandating that lower courts enforce class arbitration waivers in almost all circumstances. Critics argue that abolishing the class action insulates companies from wrongdoing, but businesses have predicted that pro se plaintiffs will flood the arbitral forum with their own low-value claims. The Obama administration responded to the Court's FAA jurisprudence by regulating arbitration clauses in the employment, financial services, and healthcare fields. However, after the balance of power shifted in 2017, Republicans have repealed many of these rules.

Despite this policymaking frenzy, we know little about what happens inside the confidential world of arbitration. This Article sharpens our understanding of this pervasive and polarizing institution by reporting the results of an empirical study of 40,775 cases filed in four major arbitration providers between 2010 and 2016. It highlights three main points. First, a wave of reforms has made arbitration surprisingly affordable for consumers, employees, and medical patients. Indeed, in leading arbitration providers such as the American Arbitration Association, JAMS, and the Kaiser Office of the Independent Administrator, a majority of plaintiffs pay no arbitration fees. Second, enterprising plaintiffs' lawyers — not pro se litigants — have taken advantage of arbitration's open doors. In fact, some attorneys have filed class action-style cases, bringing dozens or even hundreds of related arbitrations against the same company. Third, although arbitration does indeed favor repeat playing businesses, that is just half of the repeat player story. Repeat playing plaintiff's law firms also fare well. In fact, in a variety of settings, no variable affects win rates as dramatically as whether a plaintiff hires attorneys with arbitration experience.

The Article then uses these findings to propose reform. For decades, state lawmakers have tried to protect substantive rights by exempting claims from arbitration. Yet because the FAA prohibits state law from discriminating against arbitration, these efforts have failed. Accordingly, this Article urges policymakers to reverse course and create incentives for plaintiffs' lawyers to arbitrate. Specifically, jurisdictions should create an "arbitration multiplier": a bounty for winning a case in arbitration. By encouraging skilled plaintiffs' lawyers to capitalize on arbitration's accessibility, this approach would counteract the corporate repeat player advantage. In addition, because the multiplier actually encourages arbitration, it would not be preempted.

Too Much Power and Not Enough: Arbitrators Face the Class Dilemma

Alyssa S. King

Lewis & Clark L. Rev. 21: 1031-1079 (2018)

After a series of Supreme Court decisions limiting the use of class arbitration and allowing defendants to contractually prohibit it, many expected that the end of this form of arbitration was imminent. Others argued that, given arbitrators' wide discretion and the limited scope for judicial review, class arbitration might continue much as it had before. The empirical data developed in this Article show that neither side is completely correct. Class arbitration with the country's largest provider, the American Arbitration Association (AAA), has not ended, but

it has changed significantly. Arbitrators' willingness to find that a contract gives them jurisdiction to allow class arbitration has decreased dramatically. AAA's publicly available awards demonstrate that the class arbitration system was neither dismantled nor unaffected. Instead, the arbitrators' approach to the change wrought by the Supreme Court resembles that of judges. Some businesses have updated their contracts to include class waivers, but many arbitrations have gone forward under contracts that are not so clear. Although they once routinely ruled that class arbitration was permitted in such instances, arbitrators have now split nearly 50-50 on whether ambiguous clauses permit class arbitration. The arbitrators take the law seriously, and its inconsistencies have resulted in the present muddle. Unlike judges, however, arbitrators cannot write their way out of trouble by creating a general default rule. Their authority is simultaneously too broad and not broad enough.

The Growing Use of Mandatory Arbitration

Alexander J.S. Colvin

Economic Policy Institute (2017). Available at: <http://www.epi.org/publication/the-growing-use-of-mandatory-arbitration/>

This study finds that since the early 2000s, the share of workers subject to mandatory arbitration has more than doubled and now exceeds 55 percent. Key findings of this study, include:

- More than half—53.9 percent—of nonunion private-sector employers have mandatory arbitration procedures. Among companies with 1,000 or more employees, 65.1 percent have mandatory arbitration procedures.
- Among private-sector nonunion employees, 56.2 percent are subject to mandatory employment arbitration procedures. Extrapolating to the overall workforce, this means that 60.1 million American workers no longer have access to the courts to protect their legal employment rights and instead must go to arbitration.
- Of the employers who require mandatory arbitration, 30.1 percent also include class action waivers in their procedures—meaning that in addition to losing their right to file a lawsuit on their own behalf, employees also lose the right to address widespread rights violations through collective legal action.
- Large employers are more likely than small employers to include class action waivers, so the share of employees affected is significantly higher than the share of employers engaging in this practice: of employees subject to mandatory arbitration, 41.1 percent have also waived their right to be part of a class action claim. Overall, this means that 23.1 percent of private-sector nonunion employees, or 24.7 million American workers, no longer have the right to bring a class action claim if their employment rights have been violated.

[DRM Winter 2018]

The Widespread Use of Workplace Arbitration Among America's Top 100 Companies

Imre Szalai

Employee Rights Advocacy Institute (2017). Available at:

<http://employeerightsadvocacy.org/wp-content/uploads/2017/09/Insitute-2017-Report-Widespread-Use-Of-Workplace-Arbitration.pdf>

This report examines the use of arbitration agreements in the workplace by the top 100 largest domestic United States companies, as ranked by Fortune magazine. Key findings include:

1) 80% of the companies in the Fortune 100, including subsidiaries or related affiliates, have used arbitration agreements in connection with workplace-related disputes since 2010; and 2) of the 80 companies with arbitration agreements in the workplace, 39 have used arbitration clauses containing class waivers. The report does not address labor arbitration or unionized employees covered by a collective bargaining agreement. [DRM Winter 2018]

Judicial Decision Making Under Changing Legal Standards: The Case of Dismissal Arbitration

Benoit Pierre Freyens & Xiaodong Gong

Journal of Economic Behavior & Organization 133: 108-126 (January 2017)

The paper analyses how government actions affect judicial decision making in Australian labour courts arbitrating dismissal disputes. We isolate two channels through which these effects materialise: statutory reforms, which change legal standards, and strategic appointments, which change court composition. We analyse the probability of plaintiff success in courts using a panel of 81 judges and 2223 judicial decisions made between 2001 and 2015. We test for and subsequently exploit the randomised matching of labour court judges with unfair dismissal cases. We find significant effects from both channels: judges' work background and changes to legal standards are strong predictors of case outcomes. Furthermore, we find evidence of compensating effects: judges with a progressive background rule more often in favour of dismissed employees if legal reforms adversely affect their chance of success in court.

Affiliation Bias in Arbitration: An Experimental Approach

Sergio Puig & Anton Strezhnev

Journal of Legal Studies 46: 371-397 (June 2017)

A characteristic feature of arbitration, a growing form of dispute settlement, is that each disputing party appoints an arbitrator. Commentators, however, suggest that party appointed arbitrators tend to be 'biased'. Evaluating this claim from data on historical disputes is problematic due to non-random selection of arbitrators. Here, we use a novel experimental approach to estimate the causal effect of party-appointments. Using a new dataset of 266 participants around the world we confirm that professional arbitrators suffer from affiliation effects — a cognitive predisposition to favor the appointing party. At a methodological level, we offer a solution to the problem of measuring affiliation effects in a world confounded by selection effects. [DRM Winter 2017]

Are Arbitrators Human?

Rebecca K. Heim, Andrew J. Wistrich & and Jeffrey J. Rachlinski

Journal of Empirical Legal Studies 13(4): 666–692 (December 2016)

Empirical research has confirmed the correctness of the legal realists' assertion that "judges are human." It demonstrates that judicial decisions are sometimes tainted by bias, ideology, or error. Presumably, arbitrators are "human" in that sense too, but that conclusion does not necessarily follow. Although arbitrators and judges both umpire disputes, they differ in a variety of ways. Therefore, it is possible that arbitrators' awards are either better or worse than judges' decisions. This article reports the results of research conducted on elite arbitrators specializing in resolving commercial disputes. Our goal was to determine whether, like judges, arbitrators are subject to three common cognitive illusions—specifically, the conjunction fallacy, the framing effect, and the confirmation bias. We also wanted to find out whether, like judges,

arbitrators exhibit a tendency to rely excessively on intuition that may exacerbate the impact of cognitive illusions on their decision making. Our results reveal that “arbitrators are human,” and indicate that arbitrators perform about the same as judges in experiments designed to detect the presence of common cognitive errors and excessive reliance on intuition. This suggests that arbitrators lack an inherent advantage over judges when it comes to making high-quality decisions. Whether the situation in which arbitrators make their awards is more conducive to sound decision making than the setting in which judges make their rulings, however, remains unclear. [DRM Winter 2017]

Balancing Neutrality and Partiality in Arbitration: Discursive Tensions in Separate Opinions

Ruth Breeze

Text & Talk 36(4): 363–389 (June 2016)

Although arbitration is increasingly being used to settle important disputes, particularly on an international level, little attention has focused on the language used by arbitrators. This article contains a qualitative analysis of the discursive moves and resources used in separate (dissenting and concurring) opinions published on the website of the International Center for the Settlement of Investment Disputes from 1987 to 2013. Arbitrators’ discursive practices in this forum are analyzed, with a particular focus on the tensions that arise between the need to sustain the arbitral system and maintain professional relations, on the one hand, and the equally pressing need to display commitment to the losing party’s cause, on the other. These tensions have parallels in other areas of legal practice and professional life, and can be understood as part of the way power systems operate and replicate through discourse.

“Whimsy Little Contracts” With Unexpected Consequences: An Empirical Analysis of Consumer Understanding of Arbitration Agreements

Jeff Sovern, Elayne E. Greenberg, Paul Kirgis & Yuxiang Liu

Maryland Law Review 75: 1-133 (2015)

Arbitration clauses, which are ubiquitous in consumer contracts, require consumers to waive the constitutional right to a civil jury, access to court, and, increasingly, the procedural remedy of class representation. Because those rights cannot be divested without consent, the validity of pre-dispute arbitration agreements rests on the premise of consent, which is undermined if consumers do not understand the effect on their procedural rights of clicking a box or accepting a product. Using an online survey, the authors showed 668 consumers, approximately representing the U.S. adult population, a typical credit card contract with an arbitration clause that included a class action waiver. The survey results suggest a profound lack of understanding about the existence and effect of arbitration agreements among consumers. While 43% of respondents recognized that the sample contract included an arbitration clause, 61% of those believed consumers would, nevertheless, have a right to a court decision. Less than 9% realized both that the contract had an arbitration clause and that it would prevent consumers from proceeding in court. With respect to the class waiver, four times as many respondents thought the contract did not block them from participating in a class action as realized that it did, even though the class action waiver was printed twice in bold in the sample contract, including one time in italics and ALLCAPS. Of the 303 respondents who claimed never to have entered into contracts with arbitration clauses, 87% did indeed have at least one account subject to an arbitration clause. The results suggest that many citizens assume that they have a right to judicial

process and that this right will outweigh what one respondent referred to as a “whimsy little contract.” The results suggest further that citizens are giving up these rights unknowingly, either because they do not realize they have entered into an arbitration agreement or because they do not understand the legal consequences of doing so. Given the degree of misunderstanding the results demonstrate, the authors question whether meaningful consent is possible in the pre-dispute consumer arbitration context. Their survey results should cause concern among judges and policy makers considering mandatory pre-dispute arbitration agreements. [DRM Winter 2015]

Commercial Arbitration and Settlement: Empirical Insights Into the Roles Arbitrators Play

Thomas J. Stipanowich & Zachary P. Ulrich

Penn State Yearbook on Arbitration and Mediation 6: 1-31 (2014)

It is generally understood that arbitrators adjudicate disputes and mediators help settle them through negotiated agreement. But what role, if any, is there for arbitrators in promoting settlement? This aspect of arbitration is overlooked in some quarters, while occasionally provoking controversy. A thoroughgoing consideration of the subject is long overdue.... One relevant new source of information about arbitrators’ current practices and perspectives, including (among many other topics) their roles in “setting the stage” for settlement, is an extensive recent survey of experienced arbitrators co-sponsored by the College of Commercial Arbitrators (“CCA”), an organization comprised of more than two hundred of the U.S.’ most experienced and distinguished arbitrators, and the Straus Institute for Dispute Resolution (“the Survey”).

The Conventional Wisdom of Discharge Arbitration Outcomes and Remedies: Fact or Fiction

Mario F. Bognanno, Jonathan E. Booth, Thomas J. Norman, Laura J. Cooper & Stephen F. Befort

Cardozo Journal of Conflict Resolution 16: 153-185 (Fall 2014)

This study examines some commonly held beliefs about arbitration outcomes and remedies in employee discharge cases. Its findings reveal that some of these beliefs are probably fact while others are probably fiction. With data from 1,432 Minnesota discharge awards and data about the 74 arbitrators who decided them, eight truisms are examined. Specifically, the paper analyzes the frequency with which arbitrators use the Daugherty Seven Tests rubric to analyze record evidence and whether its use affects award outcomes; the distribution of varying quanta of proof that arbitrators require and how different quanta affects award outcomes; the effect of employee job tenure on award outcomes; and the effect of “last chance agreements” on award outcomes. Using a sub-sample of “reinstatement with back pay” awards, the study also examines the frequency with which arbitrators order the method by which back pay should be computed and the frequency with which they “retain jurisdiction” over their back pay awards. This paper’s findings can assist the attorney-advocate in estimating the probability of prevailing in a discharge case. Further, it can assist in judging how a case can be presented most persuasively. More generally, the data used in this discharge-based study are combined with discipline data to form the largest collection of published and unpublished discipline and discharge arbitration awards ever analyzed. The findings and implications from an analysis of these combined data are reported in the recently published book, “More Than We Ever Knew

About Discipline And Discharge In Labor Arbitration: An Empirical Study” (Vandeplas Publishing, LLC). [DRM Summer 2015]

The Influence of Arbitrator Background and Representation on Arbitration Outcomes

Stephen J. Choi, Jill E. Fisch & A.C. Pritchard

9 Va. L. & Bus. Review 9(1): 43-90 (Fall 2014)

We study the role of arbitrator background in securities arbitration. We find that several aspects of arbitrator background are correlated with arbitration outcomes. Specifically, industry experience, prior experience as a regulator, and status as a professional or retired arbitrator are correlated with statistically significant differences in arbitration awards. The impact of these characteristics is affected by whether the arbitrator in question serves as the panel chair and by whether the parties to the arbitration are represented by counsel.

Our findings offer some preliminary insights into the debate over possible arbitrator bias. On the one hand, they suggest that the party selection process is relatively effective in screening for bias. The Financial Industry Regulatory Association has imposed increasingly more rigorous qualification requirements, specifically with respect to the independence of public arbitrators, but our study suggests that these requirements are unlikely to affect outcomes in most cases. On the other hand, party selection appears to be most effective when the parties are represented by counsel. Our findings highlight the importance of legal representation in the arbitration process.

Fundamentally Unfair: An Empirical Analysis of Social Media Arbitration Clauses

Thomas H. Koenig & Michael L. Rustad

Case Western Reserve Law Review 65: 341-411 (Winter 2014)

Our systematic examination of 329 of the world’s largest social media providers reveals that 29 percent of these providers require users to submit to predispute mandatory arbitration as a condition of using their services. Forced consumer arbitration clauses are principally a U.S. phenomenon. Forty-two percent of the 188 U.S.-based social media providers contain forced arbitration clauses--in sharp contrast to only 13 percent of the 141 providers headquartered in foreign nations. Forty of the social networking websites (SNS) specify the American Arbitration Association (AAA) as the provider and nineteen specify JAMS, the two largest arbitration companies. We compare the fifty-nine social media terms of use (TOU) against the due process fairness tests that have been adopted by these two providers to mitigate the inevitable power imbalance in consumer arbitration proceedings. Our central finding is that the arbitration clauses of providers that specify the AAA and JAMS clearly fail the majority of the provisions of these two arbitral providers’ consumer due process fairness tests. Arbitration clauses employed by social media have numerous “gotcha” provisions such as hard damage caps that place an absolute dollar limit on recovery that is significantly below the cost of filing an arbitral claim with either the AAA or JAMS. Our secondary analysis of AAA and JAMS arbitration reports establishes that consumer arbitration agreements have a deterrent effect, blocking all but a handful of social media users from filing claims. In effect, social media providers, encouraged by the U.S. Supreme Court’s endorsement of mandatory consumer arbitration, have constructed a liability-free zone where social media users have rights without remedies if social media providers breach their TOU, invade their privacy, or infringe their intellectual property rights. These aggressive arbitration clauses are unlikely to be enforced in the European Union, or even accepted by the most commonly specified arbitral providers, so social networking sites need to draft more balanced TOU that pass due process fundamental fairness rules.

Does Information about Arbitrators' Win/Loss Ratios Improve Their Accuracy?

Alon Klement & Zvika Neeman

Journal of Legal Studies 42(2): 369-397 (June 2013)

This paper examines how providing litigants with information about arbitrators' win/loss ratios affects arbitrators' incentives in deciding the cases before them in an impartial and unbiased manner. We show that if litigants are informed about arbitrators' past decisions, then arbitrators might want to make an incorrect decision when a correct decision would raise the suspicion that they are biased. Therefore, providing information about arbitrators' past decisions might create adverse incentive effects and reduce the accuracy of arbitration. We compare the accuracy of arbitrators' decisions under different arbitrator selection procedures and discuss the implications for the design of arbitration rules by arbitration and dispute resolution providers and by court-administered arbitration programs.

ARBITRATION: INTERNATIONAL/INVESTMENT TREATY

Legal Authorities and Comparative Law in International Commercial Arbitration: Best Practices versus Empirically Determined Actual Practices

S.I. Strong

Ius Comparatum 1: __- __ (2020 Forthcoming), available on SSRN:

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3452332

For years, comparative law has been considered central to international arbitration, particularly with respect to procedural issues. Not only have inter-governmental organizations like the United Nations Commission on International Trade Law supported the view that judges and advocates should rely on international consensus when interpreting international instruments like the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the UNCITRAL Model Law on International Commercial Arbitration, but advocates have traditionally been encouraged to demonstrate the propriety of certain procedural decisions by presenting judges and arbitral tribunals with comparative data culled from specialist reporters and commentary. Although comparative analysis is generally considered a best practice in international commercial arbitration, questions arise as to whether and to what extent it constitutes an actual practice. This Article presents and analyses empirical information concerning the use of legal authorities and comparative law by judges and arbitrators, relying on data generated by a recent large-scale international survey on legal reasoning in commercial disputes. The Article also provides a wealth of practical information to judges, arbitrators, advocates and scholars seeking to improve the way that they conduct comparative legal research in international commercial arbitration. In so doing, this analysis aids understanding and development of this increasingly important area of law.

Legal Reasoning in International Commercial Disputes: Empirically Testing the Common Law-Civil Law Divide

S.I. Strong

Dossier XVII: Legal Reasoning in International Commercial Arbitration (ICC Institute of World Business Law, forthcoming 2020)

Although legal reasoning is central to the dispute resolution process, very little is actually known about how judges and arbitrators approach that particular task. Instead, anecdotes and

assumptions abound, with international disputes suffering the most due to longstanding but largely unsupported theories about purported differences between common law and civil law reasoning. This Article provides unique and useful insights into the legal reasoning process by presenting data from a recent large-scale empirical study of legal reasoning in commercial disputes. The discussion begins by considering why judges and arbitrators from common law and civil law countries write reasoned rulings before moving on to analyse and compare the importance of different types of legal authorities in substantive and procedural disputes. In so doing, the Article not only tests empirical findings against various theoretical assumptions relating to legal reasoning but also identifies the extent to which common law and civil law respondents diverge in their beliefs and practice. The analysis closes with a discussion of how providers of judicial and arbitral education can assist common law and civil law judges and arbitrators seeking to improve the way they approach legal reasoning.

Amicable Settlements in Investor-State Disputes: Empirical Analysis of Patterns and Perceived Problems

Ana Ubilava

Sydney Law School Research Paper No. 19/17, available on SSRN:

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3352181

This article empirically analyses investor-state arbitration cases that settle amicably after the arbitration has commenced but before the final award is rendered. The study investigates whether and to what extent some common criticisms of amicable settlements are evident in practice. It examines four research questions that correspond with the major critiques of amicable settlements in investor-state dispute settlement:

- (1) Is the amicable dispute settlement mechanism unsuitable for certain types of investor-state disputes?
- (2) Do amicable settlements impede transparency?
- (3) Does amicable settlement pay less compared to when the investor wins through an award?
- (4) Is the non-enforceability of settlement agreements a problem in practice?

The findings suggest that not all these purported problematic aspects of amicable dispute settlement mechanisms are as evident in practice as is commonly believed.

The Fourth Intermediate People's Court of Beijing Research Report on Big Data in Judicial Review of Arbitration

Summary (but not full report) available at

<http://www.cietac.org/index.php?m=Article&a=show&id=16419&l=en>

From January 2015 to October 2019, the Court accepted 1,278 cases for judicial review on arbitration, of which 401 cases were filed to confirm the validity of arbitration agreements and 877 cases to set aside the arbitral awards. 242 cases were foreign-related, of which 64 cases were to confirm the validity of arbitration agreements and 178 cases to set aside the arbitral awards. Among all the cases, 4 cases were re-arbitrated, 3 arbitration agreements were confirmed as invalid and 3 cases were set aside. 99.2% of the cases maintained arbitral awards.

A Case of Motivated Cultural Cognition: China's Normative Arbitration of International Business Disputes

Pat K. Chew

The International Lawyer 52(3): 101-147 (2019)

The centuries-old conception of judges and arbitrators as highly predictable and objective is being dismantled. In its place, a much more textured, complicated, and challenging understanding of legal decision-making is being constructed. New research on “Motivated Cognition” demonstrates that judges and arbitrators are more human than mechanical, pouring themselves – and the cultural and institutional contexts within which they act – into their decision making. This article extends the emerging model of Motivated Cultural Cognition, a form of Motivated Cognition, to the global stage, investigating arbitration of business disputes between two world-powers: United States and China. Through a first-of-its-kind empirical study of Chinese arbitration of 1,000 international business disputes, it uncovers a fascinating finding. Using particular decision rules that are consistent with China’s core cultural values, Chinese arbitrators unwittingly reach outcomes that favor Chinese and other culturally similar parties while disfavoring parties from culturally dissonant countries – most notably, the United States. Given that disputes between business parties with vastly different cultures are now the norm, this article provides important insights on the ever-evolving blueprint of cross-cultural justice.

Arbitrators’ Appointment Survey – Analysis

Monika Prusinowska

Available at SSRN: <https://ssrn.com/abstract=3264505> or <http://dx.doi.org/10.2139/ssrn.3264505> (November 2018)

International arbitration has been the preferred choice of parties involved in transnational disputes. Over the years, the caseload of the leading arbitration institutions has grown steadily and parties from around the world have met in front of international tribunals to resolve their disputes. Yet, at the same time, criticism has been directed toward a limited diversity of the system of international arbitration, including the limited pool of arbitrators deciding disputes. It has been argued that this limited diversity can have an impact on the legitimacy and efficiency of the entire system. The topic of diversity (and inclusiveness) in international arbitration has been widely present in recent discussions. Various aspects of it, including gender and nationality diversity, as well as the diversity intersectionality, have been given attention. In order to further explore this issue, the Arbitrators’ Appointment Survey was created. It intended to look at the aspect of nationality of international arbitrators, and, in particular, focus on Chinese arbitrators in this context. The survey asked a number of questions relating to the preferences when making the appointment. The analysis below offers brief remarks as to what prompted this research and presents the findings of the survey.

Annulment of Arbitral Awards by State Court: Review of National Case Law With Respect to the Conduct Of The Arbitral Process (International Bar Association October 2018)

The International Bar Association (IBA) has recently conducted a doctrinal study of thirteen jurisdictions to test the perception by various parties that tribunals frequently allow a party to succeed in procedural applications that should be denied based on a concern about annulment, a concept sometimes referred to as ‘due process paranoia.’ In practice, this gives rise to concerns about who is driving the process: the arbitrators or the party that is trying to derail proceedings.

Overall, the report noted that courts very seldom vacate arbitral awards for procedural reasons only. For the full report see

<https://www.ibanet.org/Document/Default.aspx?DocumentUId=b4b532bb-90e1-40ab-ab3d-f730c19984fb>

Winning or Losing in Investor-To-State Dispute Resolution: The Role of Arbitrator Bias and Experience

Julian Donaubaauer, Eric Neumayer & Peter Nunnenkamp

Review of International Economics 26(4): 892-916 (September 2018)

When an investor sues a state for alleged breaches of its obligations under an investment treaty or a trade agreement with investment provisions, all that should matter for who wins the case are the merits of the claim itself. Alas, investor-to-state dispute settlement (ISDS) does not take place in a vacuum. Such cases are decided by a tribunal typically consisting of three arbitrators, one each nominated by the two parties while the president is mutually agreed upon. We demonstrate that the kind of involvement of these arbitrators in previous ISDS cases matters for the case under dispute. Specifically, we show that what we label the presidents' pro-investor appointment bias—the number of times they have previously been nominated by an investor minus the number of times they have represented respondent states—raises the likelihood that an investor wins an ISDS case. The same holds for the pro-investor appointment bias of state-appointed arbitrators. Given the president's crucial role, the main implication of our findings is that presidents should be drawn from among those who have not systematically represented more one side than the other in previous cases.

Inside the Arbitrator's Mind

Susan D. Franck, Anne Van Aaken, James Freda, Chris Guthrie & Jeffrey J. Rachlinski

Emory Law Journal 66(5): 1115-1174 (2017)

Arbitrators are lead actors in global dispute resolution. They are to global dispute resolution what judges are to domestic dispute resolution. Despite its global significance, arbitral decision making is a black box. This Article is the first to use original experimental research to explore how international arbitrators decide cases. We find that arbitrators often make intuitive and impressionistic decisions, rather than fully deliberative decisions. We also find evidence that casts doubt on the conventional wisdom that arbitrators render “split the baby” decisions. Although direct comparisons are difficult, we find that arbitrators generally perform at least as well as, but never demonstrably worse than, national judges analyzed in earlier research. There may be reasons to prefer judges to international arbitrators, but the quality of judgment and decision making, at least as measured in these experimental studies, is not one of them. Thus, normative debates about global dispute resolution should focus on using structural safeguards and legal protections to enhance quality decision-making, regardless of decision maker identity or title. [DRM Summer 2017]

Investor-State Disputes at the SCC

Celeste E. Quero

Published by the Arbitration Institute of the Stockholm Chamber of Commerce (2017). Available at <http://www.sccinstitute.com/about-the-scc/news/2017/new-report-on-investment-arbitration-at-the-scc/>

The new report prepared by legal counsel Celeste E. Salinas Quero describes, among others, the economic sectors involved, the states' measures most frequently challenged by investors, the outcomes and costs of investment disputes under the SCC Rules. SCC is a preferred venue for investment arbitrations. Over the past 20 years, the SCC has administered and acted as appointing authority in more than 90 investment arbitrations, both in small-sized and in large-scale disputes. The report shows that most awards have been rendered in favor of respondent states, with 21% of tribunals declining jurisdiction, 37% denying all of the investor's claims and 42% of tribunals upholding the investor's claims in part or in full. As regards costs, the report reveals that while "splitting the baby" is a common approach taken by tribunals, most tribunals allocate and apportion the costs between the parties in a proportion that reflects each party's relative success and conduct throughout the proceedings.

Opening the Red Door to Chinese Arbitrations: An Empirical Analysis of CIETAC Cases 1990-2000

Pat Chew

Harvard Negotiation Law Review 22: 241-274 (Spring 2017)

This article reveals, for the first time, evidence-based details of CIETAC arbitral proceedings, allowing an unprecedented opportunity to better understand the institution's previously mysterious dispute resolution process. Part II of the article sets the historical and institutional context for our study of CIETAC arbitrations, confirming the prominence of Chinese foreign trade and foreign investment in China in the global economy and CIETAC's critical role in securing that prominence. Part III introduces the empirical study of CIETAC awards and explains its unique research contribution. Part IV, the heart of the article, explores the key inquiries and findings of the study. It provides data on CIETAC arbitrations: How are the cases resolved? Who are the claimants, and what are their nationalities? What are their disputes? Who selects the arbitrators? Who wins and who losses in the arbitration? Part V and the Conclusion synthesize the implications of these CIETAC discoveries.

The David Effect: Underdogs and Investment Arbitrators

Sergio Puig & Anton Stenzhnev

European Journal of International Law (2017 Forthcoming); Arizona Legal Studies Discussion Paper No. 16-28. Available at SSRN: <https://ssrn.com/abstract=2829006> or <http://dx.doi.org/10.2139/ssrn.2829006>

The legitimacy of investor-state dispute settlement or 'ISDS' is fiercely contested. Chiefly, scholars argue this arbitration mechanism empowers investors from developed states over governments of developing host states. In response, investors (mostly) from developed states argue that without adequate protections, including investor-state arbitration, they would be unable to prevent and resist opportunistic actions like expropriations by developing host states with weak rule of law and institutions. In the resulting setting, developing states facing claims by investors seem to have limited ability to improve their standing in litigation. Based on an experiment conducted on 266 arbitrators, we argue that one potential avenue is for developing

host states to exploit their ‘underdog’ status. Our results show that arbitrators may be prone to the ‘David Effect’ — a bias to favor the perceived weaker party in the arbitration. Surveyed arbitrators were more likely to award low income respondent states reimbursement of their legal costs compared to middle income states. Likewise, investors from less developed economies were also more likely to have their costs reimbursed when they win compared to investors from wealthy economies. Our study suggests that the legitimacy of legal regimes depends, in the minds of decision-makers, on a minimum expectation of fairness. This hints at the importance of arbitrators’ beliefs about the distribution of power among litigants in explaining the functioning of the investor-state arbitration system.

Arbitral Lawmaking and State Power: An Empirical Analysis of Investment Arbitration

Alec Stone Sweet

Available on SSRN at: <https://ssrn.com/abstract=2919723> (February 2017)

The paper focuses on arbitral lawmaking (the development of precedent-based frameworks of argumentation and justification), and state responses to that lawmaking (as registered in subsequent treaty-making). The paper reports analysis of: (i) all publicly-available awards (n=159) in which tribunals resolved disputes under the headings of expropriation and fair and equitable treatment, and under an umbrella clause; and (ii) investment treaties signed between 2002 and 2015 (n=398), when available in English. Three findings deserve emphasis. First, in most disputes, investors do not challenge general state measures; when they do, they are far less to prevail than when they contest acts specifically targeting their investments. Second, the evidence does not support the view that arbitral doctrine produces outcomes that are biased against states. In the vast majority of awards, tribunals take seriously the respondent state’s ‘right to regulate’ in the public interest. Third, the regime has not generated strong ‘backlash’ in any systemic sense. States continue to sign investment treaties; the mix of treaty protections on offer has remained remarkably stable; and new treaties have largely consolidated the case law that the most influential tribunals had already developed.

Political Risk and Investment Arbitration: An Empirical Study

Cedric G. Dupont, Thomas Schultz & Merih Angin

Journal of International Dispute Settlement 7(1): 136-160 (2016)

Investment arbitrations should not happen too often, because they are costly processes for both parties. Yet they regularly happen. Why? We investigate the hypothesis that investment arbitrations are used as a means of last resort, after dissuasion has failed, and that dissuasion is most likely to fail in situations where significant political risk materializes. Investment arbitration should thus tend to target countries in which certain types of political risk has materialized. In order to test this hypothesis, we focus in this paper on two drivers of political risk: bad governance, and economic crises. We test various links between those two drivers of risk and arbitration claims. We use an original dataset that includes investment claims filed under the rules of all arbitration institutions as well as ad hoc arbitrations. We find that bad governance, understood as corruption and lack of rule of law (using the WGI Corruption and WGI Rule of Law indexes), has a statistically significant relation with investment arbitration claims, but economic crises do not.

Behavioral Insights into International Arbitration: An Analysis of How to De-Bias Arbitrators

Jan-Philip Elm

The American Review of International Arbitration 27(1): 75-143 (2016)

Empirical evidence indicates that national court judges fall prey to cognitive biases and heuristics. The same may be assumed for international arbitrators. Improving third-party adjudication through behavior-ally informed rules on procedure thus seems to be an avenue of research worth being pursued. In applying behavioral law and economics to international commercial arbitration, the present analysis shows (1) that behavioral economics can help to understand arbitrators' behavior and (2) suggests how the law may mitigate their cognitive biases and heuristics in order to design more effective, efficient, and fair arbitral proceedings under the UNCITRAL Arbitration Rules. The analysis focuses on (i) the representativeness heuristic, (ii) anchoring, (iii) the hindsight bias, (iv) framing effects, and (v) the egocentric bias. Building on their underlying dynamics and recent research on context-dependent decision-making, corresponding debiasing mechanisms may be implemented into arbitral proceedings through either behaviorally informed (model) arbitration clauses or by complementing existing frameworks such as the UNCITRAL Notes on Organizing Arbitral Proceedings in a behaviorally informed manner. Hence, in applying insights from economics and psychology to international arbitration, the present analysis adopts a prescriptive approach, examining how to actively mitigate arbitrators' cognitive shortcomings as much as possible. Accuracy in fact determination – or the search for the truth – is perceived as the central motivation of this approach. As prescriptive insights from behavioral economics are able to allow for more accurate judgment, behaviorally informed rules on procedure not only benefit disputing parties by enhancing the idea of due process, but in doing so, they also empower international arbitration as a legal institution when con-fronted with national legal systems.

Investment Treaty Arbitration and Institutional Backgrounds: An Empirical Study

Suha Jubran Ballan

Wisconsin International Law Journal 34: 31-90 (Summer 2016)

Investment treaty arbitration provides a unique vantage point to examine how tribunals' behavior changes according to the institutional context within which they act: similar legal norms, standards, and rules may be interpreted and applied by the same community of international arbitrators while acting on different institutional backgrounds. Yet, such a perspective has been overlooked in the literature, largely because the institutional context of the different dispute settlement mechanisms has been captured only through its formal arrangements or through focusing on individual arbitrators or tribunals. This paper argues that the neo-institutionalist tradition in the social sciences has much to contribute to our understanding of investment treaty arbitration, and demonstrates the potential of such an approach through an empirical study. The paper reveals that formal and informal institutional arrangements in investment treaty arbitration are linked to different tribunals' behavior in at least four variables: duration of proceedings, number of sessions held, number of references to investment treaty arbitration awards and even outcome of claims. Hence the study indicates the high potential for institutional arrangements to explain the behavior of arbitration tribunals in particular and of international judicial institutions in general and calls for devoting more attention to this type of inquiry.

Predicting Outcomes in Investment Treaty Arbitration

Susan D. Franck & Lindsey E. Wylie

Duke Law Journal 65: 459-526 (2015)

Crafting appropriate dispute settlement processes is challenging for any conflict management system, particularly for politically sensitive international economic law disputes. As the United States negotiates investment treaties with Asian and European countries, the terms of dispute settlement have become contentious. There is a vigorous debate about whether investment treaty arbitration (ITA) is an appropriate dispute settlement mechanism. While some sing the praises of ITA, others offer a spirited critique. Some critics claim ITA is biased against states, while others suggest ITA is predictable but unfair due to factors like arbitrator identity or venue. Using data from 159 final cases derived from 272 publicly available ITA awards, this Article examines outcomes of ITA cases to explore those concerns. Key descriptive findings demonstrate states reliably won a greater proportion of cases than investors; and for the sub-set of cases investors won, the mean award was US \$45.6 million with mean investor success rate of 35%. State success rates were roughly similar to respondent-favorable or state-favorable results in whistleblowing, qui tam, and medical malpractice litigation in U.S. courts. The Article then explores whether ITA outcomes varied depending upon investor identity, state identity, the presence of repeat-player counsel, arbitrator-related, or venue variables. Models using case-based variables always predicted outcomes whereas arbitrator-venue models did not. The results provide initial evidence that the most critical variables for predicting outcomes involved some form of investor identity and the experience of parties' lawyers. For investor identity, the most robust predictor was whether investors were human beings, with cases brought by people exhibiting greater success than corporations; and when at least one named investor or corporate parent was ranked in the Financial Times 500, investors sometimes secured more favorable outcomes. Following Mark Galanter's scholarship demonstrating repeat player lawyers are critical to litigation outcomes, attorney experience was also critical to ITA outcomes. For investors, investors with experienced counsel were more likely to obtain a damage award against a state, whereas, states retaining experienced counsel were only reliably associated with decreased levels of relative investor success. Although there was variation in outcomes, ultimately, the data did not support a conclusion that ITA was completely unpredictable; rather, the results called into question critiques of ITA and did not prove ITA is a wholly unacceptable form of dispute settlement.

Legitimacy, Evolution, and Growth in Investment Treaty Arbitration: Empirically Evaluating the State-of-The-Art

Daniel Behn

Georgetown Journal of International Law 46(2): 363-415 (2015)

The legitimacy debates surrounding investment treaty arbitration are intensifying. At the same time, the number of claims filed continues on a growth trajectory. Some commentators believe that the practice of investment treaty arbitration will evolve over time; and as the regime evolves, many - if not all - of its claimed legitimacy deficits will be resolved. This Article will test this evolutionary thesis by empirically evaluating investment treaty arbitration cases that have been fully or partially resolved in the last three years (September 2011 through September 2014) in order to assess the extent to which the regime is - in fact - evolving and whether the empirical evidence supports or contradicts many of the legitimacy critiques currently lodged

against the regime. Special attention will be placed on assessing issues of diversity and the fair distribution of claims.

The Arbitrator Survey: Practices, Preferences and Changes on the Horizon

Edna Sussman

The American Review of International Arbitration 26(4): 517-538 (2015)

Arbitration counsel want to win. Understanding how arbitrators think, what they favor, how they make decisions, and how they work together can guide counsel in devising their strategy and developing their presentations. For their part, arbitrators want to provide a fair hearing that meets the parties' needs. Knowing how other arbitrators handle various procedural aspects, what influences their thinking, and what they prefer can inform arbitrators in conducting their own arbitrations most effectively. Several excellent works have been published in recent years which approach the subject of arbitrator decision-making from the perspective and mindset of many notable arbitration practitioners. However, empirical data based on a pool of arbitrator responses is scarce. In order to inform the arbitration community and advance the knowledge base on arbitrator preferences and decision-making, I conducted a survey. The survey was distributed through various listservs both in the U.S. and to colleagues around the world and drew 401 responses. This article reports and comments on the survey responses, grouped into six sections: the constitution of the tribunal, fundamentals, narrowing the issues and preliminary views, deliberations, the award, and mediation. It is hoped that the discussion will aid counsel and arbitrators in the conduct of arbitrations and provoke consideration of ways to improve the process in the never-ending search for excellence in arbitration.

Arbitration in Southern Europe: Insights from a Large-Scale Empirical Study

Tony Cole, Pietro Ortolani & Barbara Alicja Warwas

The American Review of International Arbitration 26: 187-268 (2015)

This empirical research took the form of a Survey of arbitration practitioners across the European Union and Switzerland, consisting of 95 questions, and addressing such diverse topics as the backgrounds of arbitration practitioners, the procedures used in the arbitrations in which respondents had been involved, the considerations important for recommending arbitration and for selecting an arbitrator, and environmental questions such as the attitude of judges towards arbitration and the desirability of action by the European Union to harmonize arbitration law across the European Union. The present article reports on and discusses the results of this Survey with respect to six States collectively described here as constituting "Southern Europe": Cyprus, Greece, Italy, Malta, Portugal and Spain. While these States share an obvious geographic proximity, it is important to emphasize that the decision to collect them into a single article was made not just on this geographic basis, but also due to certain cultural and legal elements shared by these States that might be thought to impact on local arbitral practice. The goal of this article is not merely to report the results of the Survey, but is instead to use the results of the Survey, interpreted in the light of the additional information developed in the course of the Study, to generate a picture of arbitration in each of these States. In this way the article seeks to deviate from the norm of concentration upon elite international arbitration practice, in order to provide important new information on the realities of and variations that exist in the practice of arbitration across Southern Europe. Recognizing and appreciating this reality of diversity provides an important foundation for enriching the academic study of arbitration beyond this single article and these six States, moving such study away from an exclusive focus on elite

arbitral practice, towards an appreciation of the significant variations that do indeed often characterize the reality of arbitration around the world.

The Diversity Challenge: Exploring the “Invisible College” of International Arbitration

Susan D. Franck, James Freda, Kellen Lavin, Tobias A. Lehmann & Anne Van Aaken
Columbia Journal of Transnational Law 53: 429-506 (2015)

With a lack of accurate, complete, and publicly available data about international arbitrators and practitioners, speculation about membership in the “invisible college” of international arbitration abounds. Using data from a survey of attendees at the prestigious and elite biennial Congress of the International Council for Commercial Arbitration (413 subjects who served as counsel and 262 who acted as arbitrators, including 67 investment treaty arbitrators), permitted one glimpse into the membership of the international arbitration community. The median international arbitrator was a fifty-three year old man who was a national of a developed state reporting ten arbitral appointments; and the median counsel was a forty-six year old man who was a national of a developed state and had served as counsel in fifteen arbitrations. In addition: 1) 17.6% of the arbitrators were women, and there was a significant age difference such that male arbitrators were approximately ten years older than women; 2) for those acting as international arbitrators, the authors could not identify a significant difference in the number of appointments women and men obtained; 3) depending upon how development status was defined, developing world arbitrators accounted for fifteen to twenty percent of arbitrators; and 4) for all measures used to analyze development status, arbitrators from the developing world received a statistically lower number of appointments than their developed world counterparts. Recognizing the data revealed diversity in international arbitration is a complex phenomenon, the data nevertheless supported, rather than disproved, claims that international arbitration is a relatively homogenous group. Acknowledging that international arbitration may improve over time and diversity issues challenge other forms of dispute resolution, diversity levels in international arbitration were somewhat lower than in several national court systems but were generally reflective of diversity levels in other international courts and tribunals. [DRM Summer 2015]

Consent Awards in International Arbitration: From Settlement To Enforcement

Yaraslau Kryvoi & Dmitry Davydenko
Brooklyn Journal of International Law 40(3): 827-868 (2015)

Although over a third of all arbitration proceedings result in settlement agreements very little has been written on the legal status of consent awards in international arbitration. Drawing on comparative analysis of procedural rules and practice of major arbitration tribunals, domestic law of common and civil law jurisdictions, this Article presents the first major study of consent awards in international arbitration. Consent awards, being effectively settlement agreements recorded by arbitration tribunals as awards, raise a number of difficult legal questions, ranging from the right of arbitrators to refuse recoding the settlement as a consent award to the possible use of consent awards to cover illegal activities. Understanding what makes consent awards different from “normal” arbitration awards will help successfully navigate from settlement to enforcement.

Diversity in Arbitration in Europe: Insights from a Large Scale Empirical Study

Tony Cole & Pietro Ortolani

Transnational Dispute Management Online Journal 12(4) (July 2015). See also University of Leicester School of Law Research Paper No. 16-2. Available at SSRN: <http://ssrn.com/abstract=2626347>

While issues of gender and ethnic diversity have become prominent in all areas of law, there is reason to believe that the insular nature of the arbitration community, combined with the importance of personal connections to receiving career opportunities in arbitration will make diversity a particularly complex matter in arbitration as a field of professional practice. That is, while there is no evidence that arbitration practitioners are as a group any more likely to discriminate on the basis of ethnicity or gender than other legal professionals, fields in which career progression is tightly linked to receiving the support of “gatekeepers” can present particular obstacles for non-Male and minority practitioners, who may be less likely to make strong social connections with those gatekeepers, and so be less likely to receive opportunities for career progression. In 2014 a team at Brunel University, as part of a study being conducted for the European Parliament, undertook a large-scale survey of arbitration practitioners across the European Union and Switzerland. While this Survey was not primarily focused on questions of diversity, all respondents were asked to self-identify both their gender and their ethnicity, with selection of multiple ethnicities being permitted. Consequently, although the Survey aimed at offering a comprehensive picture of arbitration in all EU Member States and Switzerland, rather than focusing on the specific question of diversity, it generated information on both the levels of non-Male and ethnic minority involvement in arbitration, and, through cross-analysis of data, on career progression within arbitration of non-Male and ethnic minority arbitration practitioners. This article will provide a brief overview of these results, which do indeed indicate ongoing diversity-related problems within arbitration.

Is the End Nigh Again? An Empirical Assessment of the 'Judicialization' of International Arbitration

Remy Gerbay

American Journal of International Arbitration 25(2): 223-247 (2014)

The central questions that this article addresses are: Has there been a significant judicialization of international arbitration in recent years? And is this judicialization really a sign of a loss of attraction for international arbitration? For these purposes, conventional assumptions about the extent and meaning of the phenomenon of judicialization in international arbitration are assessed in the light of empirical data made available by the leading institutions in the field of international arbitration, including the International Court of Arbitration of the International Chamber of Commerce (“ICC”), the London Court of International Arbitration (“LCIA”), the International Center for Dispute Resolution (“ICDR”), and the Arbitration Institute at the Stockholm Chamber of Commerce (“SCC”). His article answers its two research questions negatively, for two main reasons. First, empirical evidence does not support the assumption that international arbitration has recently become more judicialized. The evidence suggests that, if there has been judicialization, the bulk of it must have happened over two decades ago, before the recent period of exponential growth in the use of international arbitration. Second, the increased formality and sophistication of international arbitration procedure is partly due to the evolution of the dispute types referred to international arbitration. In particular, there has been an increase in the value and complexity of disputes. In short, judicialization is more a sign of

international arbitration's mutation than evidence of its impending extinction. [DRM Winter 2016]

Conflating Politics and Development? Examining Investment Treaty Arbitration Outcomes

Susan D. Franck

Virginia Journal of International Law 55: 13-71 (2014)

International dispute settlement is an area of ongoing evaluation and tension within the international political economy. As states continue their negotiations for the Trans-Pacific Partnership (TPP) and the Transatlantic Trade and Investment Partnership (TTIP), the efficacy of international arbitration as a method of dispute settlement remains controversial. Whereas some sing its praises as a method of protecting private property interests against improper government interference, others decry investment treaty arbitration (ITA) as biased against states. The literature has thus far not disentangled how politics and development contribute to investment dispute outcomes. In an effort to control for the effect of internal state politics, this Article offers the first analysis of ITA outcomes, focusing on respondent states' development status while simultaneously controlling for states' democracy levels. Using a dataset of 159 final ITA awards from prior to January 2012, the Article conducts quantitative analyses of outcomes as a function of raw wins and losses, amounts awarded, and relative investor success. Initially, when evaluating outcomes based on a respondent state's membership in the Organisation for Economic Cooperation and Development (OECD) or a state's score on the UN Development Programme (UNDP) Human Development Index, it was not possible to identify a reliable link to outcomes. Only defining a respondent's development status using a World Bank classification generated reliable differences for Upper-Middle income states, and only for two measures of outcome — namely raw wins and amounts awarded. Using the World Bank measure, there was no statistically significant relationship with relative investor success. None of these analyses, however, controlled for the level of internal state democracy to identify how democracy levels, which can reflect good governance infrastructure, might contribute to outcomes. After controlling for the effect of a state's internal democracy levels, twelve analyses were unable to identify a reliable link with ITA outcomes and development status irrespective of how development status was defined. While the Article cannot conclusively exclude the possibility of systemic bias in ITA against the developing world, it provides additional evidence suggesting the potential absence of such bias or the importance of alternative explanatory variables. The results also suggest that focusing on development status alone may be unwarranted, and future research should explore internal levels of democracy or other indicators of good governance, which could be associated with the decreased risk of a state loss. The Article concludes that normative choices focused solely on respondent state development status miss an opportunity to craft normative solutions tailored to redress tangible problems. By focusing on variables that demonstrably contribute to variance in ITA outcomes, stakeholders could construct more appropriate international dispute settlement processes in a time of international economic transition.

An Empirical Study of Arbitrators Acting as Mediators In China

Fan Kun

Cardozo J. Of Conflict Resolution 15(3): 777-811 (2014)

While there are ongoing the debates on the appropriateness of arbitrators acting as mediators in a pending arbitration (this process is often described as 'arb-med'), such practice

seems to work well in China. In this respect, the Chinese model may be useful in contributing to the practice in other jurisdictions. How is the role of arbitrators perceived in China? How do Chinese arbitrators usually promote settlement? Could we generalize some good practice of arb-med based on the Chinese experience? Our perceptions about the conduct of arbitrators are often driven by anecdotes. This is partly because of the confidential nature of arbitration proceedings. The problem with anecdotes is that it is difficult to evaluate whether the event or practice described is 'typical or atypical, frequent or infrequent, ordinary or extreme, as common as a rabbit or as rare as a rhinoceros' (DRAHOZAL, 2003). More systematic research is needed by supplementing anecdotes with empirical studies. Based on the findings in a series of interviews with experienced Chinese arbitrators conducted during a research trip with Professor Kaufmann-Kohler in March and April 2007, the author conducted a further survey between November 2011 and April 2012, in order to examine the Chinese arbitrators' general attitudes on arb-med, how the process is typically conducted, and the common techniques adopted in facilitating settlement. At a time when arbitration has become too costly and too slow, these research findings may generalize some good practice on the effective use of arb-med based on the Chinese experience, and this may improve the administration of justice. Section I of the article reviews relevant literature on the general attitudes of arbitrators in settlement facilitation. Section II defines the scope of the current study and describes the empirical methodology. Section III analyses the results of empirical research and gives a detailed description of the attitudes and practice of arb-med in China. Section VI discusses further implications of the Chinese experience on the practice in other jurisdictions. Part V concludes.

Investment Arbitration: Promoting the Rule of Law or Over-Empowering Investors? A Quantitative Empirical Study

Thomas Schultz & Cédric Dupont

European Journal of International Law 25(4): 1147-1168 (November 2014)

Investor-state arbitration, also called investment arbitration, is often accused of harming developing states facing economic hardship for the benefit of a wealthy few from the global north. Its proponents respond that investment arbitration is the only means available to resolve disputes impartially and that its use clarifies international law. In this article, the authors investigate the empirical manifestations of the uses and functions of investment arbitration with an original dataset that compiles more than 500 arbitration claims from 1972 to 2010. The study reveals that until the mid- to late 1990s, investment arbitration was mainly used in two ways. It was a neocolonial instrument to strengthen the economic interests of developed states, or it was a means to impose the rule of law in nondemocratic states with a weak law-and-order tradition. But since the mid- to late 1990s, the main function of investment arbitration has been to provide guideposts and determine rights for investors and host states – and thus increase the predictability of the international investment regime. In doing so, however, it seems to favor the “haves” over the “have nots,” making the international investment regime harder on poorer countries than on richer ones. [DRM Summer 2014]

Lessons for the US System of Financial Arbitration: A Responsive Empirical Exploration of Arbitration and Ombudsman Services

Shala F. Ali

Frontiers of Law in China 8(4): 651-688 (December 2013)

The United States largely relies on a system of arbitration to handle retail consumer financial disputes. This approach has undergone significant challenges in recent years particularly in light of recent abuses of consumer credit arbitration mechanisms. This paper reports on the result of a non-randomized small-n survey which we label the “Financial Dispute Study” aiming at evaluating the relative effectiveness of two major approaches to financial dispute resolution — arbitration and ombudsman services. Nearly a hundred survey questionnaires were distributed to financial dispute resolution practitioners throughout the world. A total of forty-eight arbitrators and ombudsmen from East Asia, North America, Europe, the Middle East and Africa responded. In the Study the participants were asked how practitioners viewed the level of satisfaction, settlement rate and perceived increase or decrease in the use of the given method of financial dispute resolution — whether arbitration or ombudsman service. This paper analyzes the method-effect, meaning we focus on the effect of the selected method of financial dispute resolution (whether ombudsman or arbitration) on settlement, satisfaction and increase or decrease in use. In doing so, the study evaluates the relative effectiveness of two major approaches that a financial dispute resolution mechanism might adopt. We find no statistically significant evidence that a given method, arbitration or the use of ombudsman process has a large (or any) effect on the settlement rate, level of satisfaction or usage. To the contrary, arbitration and ombudsman group point estimates are generally close to one another. Nevertheless, the data indicate slightly higher levels of settlement and overall increase in use in ombudsman processes worldwide. These findings, combined with feedback from open ended interviews along with structural safeguards against repeat-player advantage integrated into the ombudsman process ensuring that awards are rendered without prejudice to the claimant, suggest that merit may be found in exploring the potential applications and use of ombudsman processes for the resolution of consumer financial disputes. The paper concludes with some limited interpretation of the results.

ARBITRATION: EMPLOYMENT

Comparing the Effects of Judge’s Gender and Arbitrators’ Gender in Sex Discrimination Cases and Why it Matters

Pat K. Chew

Ohio St. J. on Disp. Resolution 32: 195-217 (2017)

Empirical research indicates female judges are more likely than male judges to render a decision in the employee plaintiffs' favor, presumably because male and female judges have different perspectives on what constitutes sex discrimination and sexual harassment. The author's empirical study of arbitration of sex discrimination cases administered by the American Arbitration Association between 2010 and 2014, however, finds that this judges’ “gender effect” does not occur in arbitration. Namely, there is no significant difference in the decision-making patterns of female and male arbitrators as indicated by case outcomes. This absence of an arbitrators’ “gender effect” raises concerns about the arbitration process more broadly: do employers’ advantages, arbitrators’ competitive pressures, and arbitrators’ unmonitored discretion in decision-making result in inadvertent gender biases? [DRM Winter 2018]

Judicial Review of Teacher-School Board Grievance Arbitration: An Empirical Analysis

Perry A. Zirkel

Journal of Law and Education 45: 181-208 (Spring 2016)

This article provides an empirical analysis of published and unpublished court decisions that reviewed grievance arbitration in the context of teacher-board collective bargaining agreements (CBAs). The case coverage for the analysis is for the ten-year period from August 1, 2005 to July 31, 2015. The two overlapping issues are (1) arbitrability, which usually arises but not uniformly during the pre-arbitration phase *182 (i.e., prior to the hearing), and (2) vacatur, which arises during the postarbitration phase (i.e., after the award). The article follows a traditional organization for empirical legal scholarship. The first part provides the reader with a brief overview of the evolving legal framework. The second part reviews the applicable research literature to date. The third part summarizes the method and results of the empirical analysis. Finally, the fourth part discusses the results with particular attention to their practical significance and recommendations for follow-up research.

Individual Employment Rights Arbitration in the U.S.: Actors and Outcomes

Alexander J.S. Colvin & Mark Gough

Industrial and Labor Relations Review 68(5): 1019-1042 (2015)

This study examines disposition statistics from 2,211 employment arbitration cases administered over a nine-year period by the American Arbitration Association (AAA) to investigate the process of dispute resolution in this new institution of employment relations. We find that the institutional structure of arbitration affects employee outcomes, in particular win rates and award amount, raising concerns about systemic employer advantage. This study provides evidence of a significant repeat employer-arbitrator pair effect; employers that use the same arbitrator on multiple occasions win more often relative to employers appearing before an arbitrator for the first time. Employee win rates are higher in California and lower in Texas compared to those filed in all other states. Female arbitrators and members of the National Academy of Arbitrators (NAA) render awards in favor of employees less often than do male arbitrators and non-NAA members. And former judges award higher damages, on average, than arbitrators without judicial experience.

The High Costs of an Inexpensive Forum: An Empirical Analysis of Employment Discrimination Claims Heard in Arbitration and Civil Litigation

Mark D. Gough

Berkeley Journal of Employment and Labor Law 35: 91-112 (2014)

In the wake of the Supreme Court's *Gilmer* decision in 1991, mandatory arbitration clauses, also known as pre-dispute arbitration clauses, have become an increasingly common fixture in employment agreements and handbooks in non-union organizations. The creation of a private, alternative forum for the resolution of individual employment rights is understandably provocative, but given arbitration's private nature, it has been difficult for scholars to collect and analyze robust statistical evidence about this new institution. Using data on recent employment discrimination verdicts from a 2013-2014 survey of approximately 700 practicing employment attorneys, this article investigates employment arbitration's effect on employee access to justice and the quality of justice received. Consistent with previous research, the author finds employee win rates and award amounts are lower in arbitration compared to those found in civil litigation.

Improving on existing literature, however, the author finds no evidence that inferior outcomes can be explained by differences in case characteristics between the forums: while the use of summary judgment is more frequent in litigation, employee plaintiffs in arbitration, on average, have higher salaries, are employed by organizations of comparable size, allege similar discriminatory acts, and present cases of equal merit relative to plaintiffs pursuing claims through civil litigation. [DRM Winter 2015]

Employment Arbitration in The Securities Industry: Lessons Drawn From Recent Empirical Research

Ryan Lamare & David B. Lipsky

Berkeley Journal of Employment and Labor Law 35(1): 113-133 (2014)

In this article, we use evidence gathered from employment arbitration cases arising in the securities industry to address several research questions that emanate from the debate over the arbitration of employment disputes. We empirically answer the following questions: (1) are critics correct in asserting that employment arbitration favors repeat players? (2) do employees fare better under voluntary arbitration than they do under mandatory arbitration? (3) are employees who allege violations of their civil rights, through the filing of discrimination charges, treated differently from those filing other types of claims? (4) does the gender of the parties involved in the arbitration process affect outcomes in any way? (5) is there evidence that companies learn from, or are affected by, the results of prior arbitration awards when dealing with a current claim? Although the literature has offered some answers to these questions, this article provides a holistic review and overview of the arbitration experience within the securities industry and a summation of quantitative evidence on the subject.

Saturns and Rickshaws Revisited: What Kind of Employment Arbitration System has Developed?

Alexander J.S. Colvin & Kelly Pike

Ohio State Journal on Dispute Resolution 29: 59-83 (2014)

The authors examined all employment arbitration cases administered by the AAA and terminated in 2008. The study's purpose was to investigate the degree to which employment arbitration accords with the vision of a simplified, but accessible and effective alternative to standard litigation for resolving workplace disputes. Nearly three-quarters of the cases arose from employer requirements that disputes be resolved through arbitration. The typical case in these employer-required arbitration proceedings, as in litigation, is a statutory claim with a damage claim of well over \$100,000. Smaller claims, often seen as unable to access the litigation system, have not turned to arbitration—even though, under AAA's rules, employers pay the arbitration fees, which at almost \$10,000 per case could otherwise be a barrier to access. Employees win just under one-quarter of the arbitration cases and some recover substantial damages. However, employee win rates and damage amounts in arbitration are lower than those found in litigated cases that get to the trial stage. Self-represented employees, who make up a third of those bringing claims (as compared to about one-quarter in litigated cases) have lower success rates and receive much smaller damages than represented employees. As with litigation, settlement is the resolution mechanism for most cases in arbitration. Summary judgment motions have become a feature of employment arbitration as well; such motions are brought in a quarter of the cases and most are successful. The time to get an arbitration hearing, while arguably still too long at around a year, is shorter than is typical in litigation. The authors conclude that

employment arbitration is, in a number of respects, replicating the limitations of the litigation system rather than providing a more accessible and effective system of workplace justice. [DRM Winter 2014]

The Effect of Gender on Awards in Employment Arbitration Cases: The Experience in the Financial Securities Industry

David Lipsky, Ryan Lamare & Abhishek Gupta
Industrial Relations 52(1): 314-342 (January 2013)

In this article, the authors analyze the outcomes of nearly 3,200 awards issued in employment disputes settled by arbitration in the securities industry over the period 1986–2008. The large amount of litigation in the securities industry alleging discrimination by securities firms against the women they employ led the authors to hypothesize that women would do less well than men in these arbitration cases. The study revealed that the gender of the complainant and the complainant’s attorney (but not the gender of the respondent’s attorney or the arbitrator) had significant effects on the size of the awards. Across the range of analyses conducted by the authors, female complainants did less well than male complainants in these employment arbitration cases. The gender of the attorney representing the complainant also affected the size of the award: male attorneys obtained larger awards than female attorneys. After examining the features of the arbitration process for which they had data (admittedly limited) and finding that gender differences in arbitration awards were robust across all analyses, the authors hypothesize that these differences are more likely due to persistent differential treatment of women in the securities industry than to the arbitration process (e.g., large differentials in salary likely result in large differentials in arbitration awards). [DRM Winter 2014]

ARBITRATION: CONSUMER

After the Revolution: An Empirical Study of Consumer Arbitration

David Horton & Andrea Cann Cahndrasekher
Georgetown Law Journal 104: 57-124 (2015)

For decades, mandatory consumer arbitration has been ground zero in the war between the business community and the plaintiffs’ bar. Some courts, scholars, and interest groups argue that the speed, informality, and accessibility of private dispute resolution create a conduit for everyday people to pursue claims. However, others object that arbitration’s loose procedural and evidentiary rules dilute substantive rights, and that arbitrators favor the repeat playing corporations that can influence their livelihood by selecting them in future matters. Since 2010, the stakes in this debate have soared, as the U.S. Supreme Court has expanded arbitral power and mandated that consumers resolve cases that once would have been class actions in two-party arbitration. But although the Court’s jurisprudence has received sustained scholarly attention, both its defenders and critics do not know how it has played out behind the black curtain of the extrajudicial tribunal. This Article offers fresh perspective on this debate by analyzing nearly 5,000 complaints filed by consumers with the American Arbitration Association between 2009 and 2013. It provides sorely-needed information about filing rates, outcomes, damages, costs, and case length. It also discovers that the abolition of the consumer class action has changed the dynamic inside the arbitral forum. Some plaintiffs’ lawyers have tried to fill this void by filing numerous freestanding claims against the same company. Yet these “arbitration entrepreneurs” are a pale substitute for the traditional class mechanism. Moreover, by pursuing scores of

individual disputes, they have inadvertently transformed some large corporations into “extreme” repeat players. The Article demonstrates that these frequently-arbitrating entities win more and pay less in damages than one-shot entities. Thus, the Court’s consumer arbitration revolution not only shields big businesses from class action liability, but gives them a boost in the handful of matters that trickle into the arbitral forum. [DRM Winter 2016]

Arbitration Study: Report to Congress, Pursuant to Dodd Frank Wall Street Reform and Consumer Protection Act § 1028(a)

Available at http://files.consumerfinance.gov/f/201503_cfpb_arbitration-study-report-to-congress-2015.pdf (2015)

In Section 1028(a) of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010, Congress instructs the Consumer Financial Protection Bureau (the “Bureau”) to study “the use of agreements providing for arbitration of any future dispute . . . in connection with the offering or providing of consumer financial products or services,” and to provide a report to Congress on the same topic. This document presents the results of that study.

Skeletons in the Database: An Early Analysis of the CFPB's Consumer Complaints

Ian Ayres, Jeff Lingwall & Sonia Steinway

Yale Law & Economics Research Paper No. 475 (July 2013). Available at SSRN:

<https://ssrn.com/abstract=2295157> or <http://dx.doi.org/10.2139/ssrn.2295157>

Analyzing a new dataset of 110,000 consumer complaints lodged with the Consumer Financial Protection Bureau, we find that (i) Bank of America, Citibank, and PNC Bank were significantly less timely in responding to consumer complaints than the average financial institution; (ii) consumers of some of the largest financial services providers, including Wells Fargo, Amex, and Bank of America, were significantly more likely than average to dispute the company’s response to their initial complaints; and (iii) among companies that provide mortgages, OneWest Bank, HSBC, Nationstar Mortgage, and Bank of America all received more mortgage complaints relative to mortgages sold than other banks. In addition, regression analysis suggests that consumer financial companies respond differently to complaints about different products and based on different issues, generating significant differences in timeliness of response, as well as significant differences in whether consumers dispute that response. Moreover, demographics matter: there were significant increases in mortgage complaints per mortgage in ZIP codes with larger proportions of certain populations, including Blacks and Hispanics, as well as an increase in untimeliness and company responses disputed for groups on which the CFPB is mandated to focus, including senior citizens and college students.

AROUND THE WORLD

Mandatory Arbitration of Intra-Corporate Disputes in Brazil: A Beacon of Light for Shareholder Litigation?

Patricia Gil Lemstra & Joseph A. McCahery

TILEC Discussion Paper No. DP2020-008 (April 2020), available on SSRN at:

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3566985

We survey law firms, firms and institutional investors to better understand their preferred method of intra-corporate dispute resolution in Brazil. Consistent with a number of theories, we find that these organizations prefer arbitration to judicial claims as the method of intra-corporate

dispute resolution. Our findings suggest that their choice of arbitration is based on the parties' preferred ranking of objectives: quality of the decision; time to resolution; and costs. We find that parties choose to resolve disputes involving up to US\$ 2.5 million through mediation or conciliation. We also find that arbitration and mediation or conciliation are almost equally preferred methods for intra-corporate dispute resolution involving values above US\$ 2.5 million.

Management of Interpersonal Conflict in Negotiation with Chinese: A Perceived Face Threat Perspective

Zhuo-Jia Zhao, Hung-Hsin Chen & Kevin W. Li

Group Decision and Negotiation 29(1): 75–102 (February 2020)

Despite increasingly frequent business interactions between China and the West, negotiations with Chinese remain a great challenge to most Westerners. Sino-Western discrepancies in cultural values and social norms lead to massive misunderstandings and inevitable conflicts in business negotiations. Grounded on the Politeness Theory (Brown and Levinson in *Politeness: some universals in language usage*, Cambridge University Press, New York, 1987), this study aims to better predict Chinese negotiation behaviors from an indigenous perspective by exploring the impact of face on Chinese conflict handling strategies. With a sample of 608 Chinese business representatives, this research demonstrates the significant effect of perceived fellowship-, moral-, competence- and autonomy-face threats on Chinese conflict management styles in business negotiations. It is found that Chinese do not always act as politely and agreeably as expected when bargaining with their business partners, especially in a conflict context. Based on their perceptions of face threats induced by various conflict issues, they may adopt different strategies, ranging from competing, collaborating, compromising, accommodating to avoiding, to negotiate with their counterparts. In addition, it is confirmed that both a contextual antecedent (*guanxi*) and an individual trait (public self-consciousness) will significantly influence Chinese representatives' face threat perceptions and, subsequently, determine how they will behave in business negotiations.

Finding Potential Speed Bumps and Pitfalls in Buyer–Seller Negotiations in Twenty Cultures

John L. Graham, Mehdi Mahdavi & Navid Fatehi-Rad

Negotiation Journal 36(3): 249-286 (Summer 2020) [Study One] and

Planting Orange Trees in Twenty Cultures: The Practice of Negotiations

Mehdi Mahdavi, Navid Fatehi-Rad & John L. Graham

Negotiation Journal 36(4): 421-440 (Fall 2020) [Study Two]

In Study One, the authors examine the effects of culture on negotiation behaviors and outcomes in 20 countries and regions around the world. Their work integrates theories and methods from many areas of the behavioral sciences: marketing science, decision analysis, behavioral economics, game theory, social psychology, anthropology, sociolinguistics, linguistics, content analysis (including videotapes), and structural equations modeling. The data were created in a laboratory setting in which 1,197 experienced businesspeople from 20 cultural groups participated in a three-product, face-to-face buyer–seller negotiation simulation. The authors provide an empirically based, innovative tool for understanding cultural differences and then use it to investigate how culture influences negotiation behaviors, processes, and outcomes across the 20 cultural groups. For example, they found negotiators from relationship-oriented cultures such as Japan, Mexico, and Russia tended to behave more cooperatively and to ask more

questions than their counterparts in transaction-oriented cultures such as Germany and the United States.

In Study Two, the authors developed country profiles for each cultural group using 27 variables from their studies and those of others. The profiles are useful in two ways. First, the authors measure the extent of similarities and differences in behaviors across 190 pairings in cross-cultural negotiations (on the scale of 100, higher numbers mean greater similarity). Exemplary are the similarities/differences between Iran and the five permanent members of the UN Security Council in ongoing nuclear arms negotiations. The Iran/US score is US 33, /Germany 55, /France 57, /UK 39, /China ~60, and /Russia 46. This suggests Iranians and Americans will have the most difficulties in working together. And at least at this writing, it seems empirically so. Second, by directly comparing all entire 27 variables in the profiles, the authors report where difficulties are likely to crop up. Americans and Iranians are most different when it comes to turn-taking in conversations – Americans interrupt each other least, and Iranians the most of all the 20 cultural groups. And while Americans bring a transaction-oriented set of behaviors to the bargaining table, Iranians tend to be relationship-oriented. Finally, beyond the 190 matchups, the authors offer some general advice. First, asking questions is a key negotiation behavior, as it leads to greater information-sharing. Second, paying attention to nonverbal behaviors is crucial. And third, interpersonal attraction is a key component of inventive negotiation and international commercial relationships. [DRM Winter 2021]

Fitting the Forum to the Fuss While Seeking the Truth: Lessons from Judicial Reforms in Italy

Paola Lucarelli, Nofit Amir, Dana Rosen, Hadas Cohen & Michal Alberstein
Available at SSRN: <https://ssrn.com/abstract=3604846> (September 2020)

While settlement has long taken center stage in common law cultures, giving rise to the “settlement judge,” it is also gaining ground in European civil law cultures, creating unique judicial roles that broaden the repertoire of judicial function. The study uncovers an informative new judicial role arising from reforms in Italy, one that combines mediation awareness, adversarial settlement-seeking, and inquisitorial truth-seeking that the authors named “fitting the forum to the fuss while seeking the truth.” The authors focus on the Florence first-instance court in Italy. The court’s recent reforms encouraging settlement, mediation, and judicial conciliation is being replicated by other courts in the country. The authors examine the actual involvement of Italian judges in reaching consensual dispositions of civil cases and include a docket analysis of civil cases, findings from interviews with judges, and an analysis of court observations. Despite the strong preference for adjudication in Italy, judges are using unique tools to encourage settlement. Their intervention correlates with an increase in settlement prospects. This finding, combined with the finding that less than half of the cases (42%) are disposed through adjudication, raises the possibility that the vanishing trial phenomenon, well documented in common law systems, may slowly and uniquely make inroads in Italy. In addition, judges view their settlement role as another form of adjudication while viewing mediation as a broad, transformative alternative. The sharp separation between in-court justice and out-of-court justice might offer a new model of justice that avoids institutional cooptation of mediation, a problem in common law systems. [DRM Winter 2021]

A Snapshot of National Legislation on Same Neutral Med-Arb and Arb- Med Around the Globe

Hiro N. Aragaki

Loyola Law School, Los Angeles Legal Studies Research Paper No. 2020-11 (April 2020)

Available on SSRN at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3583173

This draft paper provides a broad overview of how jurisdictions around the world have attempted to address situations in which the same neutral serves as both the arbitrator and the mediator in the same dispute. It begins by surveying how the principal model laws and legislative precedents on mediation and arbitration regulate same neutral med-arb and arb-med, respectively. It then provides a descriptive account of the main regulatory approaches on the subject taken in national mediation and arbitration laws of 195 jurisdictions around the world. It concludes by eliciting broad regulatory patterns. The main finding is that many patterns, when broken down by region and legal tradition, are difficult to explain by reference to existing literature—for example, about the receptivity of Asian or civil law European countries toward same neutral hybrid processes.

Bidirectional Relationship Progression in Buyer–Seller Negotiations: Evidence from South Korea

Junjun Cheng

Group Decision and Negotiation 29(2): 293–320 (February 2020)

This study investigates the intrapersonal and interpersonal mechanisms of relational progression across multi-session buyer–seller negotiations using the actor–partner interdependence mediation model approach. Self-reported data were collected from 94 South Korean participants through multi-session negotiation simulations. Results showed that buyers and sellers were empirically distinguishable from each other. While intrapersonal relational progression was observed within both buyers and sellers, this effect was significantly greater within sellers and was mediated by self-perceived communication quality. The overall interpersonal relational impact occurred unilaterally from sellers to buyers and was mediated by buyer’s perceived communication quality. The study reveals the asymmetric structure of bidirectional relational progression in buyer–seller negotiations with sellers taking a more active stance at both intrapersonal and interpersonal dimensions.

Effectiveness of Dispute Resolution Councils in Alternative Dispute Resolution: A Study of Selected Districts of Khyber Pakhtunkhwa

Rabia Manzoor, Syed Shujaat Ahmed & Vaqar Ahmed

Quest Journal of Management and Social Sciences 2(1): 50-63 (2020)

Background: Dispute resolution is the process through which conflicts, misunderstandings are handled. It is an effective process for smooth functioning of any sort of organization. It further helps in maintain peace in the society as well as organization.

Objective: This study seeks to appraise and evaluate the effectiveness of Dispute Resolution Councils (DRCs) in the select districts of Khyber Pakhtunkhwa, Pakistan.

Methods: The effectiveness of ADR forums is gauged through magnitude of satisfaction and trust of beneficiaries accessing its services as well as affordability and timeliness of dispensation of justice to them.

Findings: It was found that DRCs have become highly consequential to the peacemaking due to impartial setup and the provision of equal opportunity to parties involved in any case.

Conclusion: Despite the overall success of DRCs, they are still affected by problems such as poor documentation, infrastructure, lack of training and most importantly the absence of any enforcement mechanism of their decisions.

Implication: This study puts forth various reforms that may include the standardization of documents, provision of sufficient capital and adequate infrastructure, and auguring the role of these avenues to strengthen the implementation of their decisions.

Managerial and Employee Conflict Communication in Papua New Guinea: Application of the Culture-Based Social Ecological Conflict Model

Polang Forenuwe Tommy John G. Oetzel

Negotiation and Conflict Management Research 12(3): 213-233 (August 2019)

Framed by the culture-based social ecological conflict model (CBSECM), this study examines individuals' accounts of conflict communication in Papua New Guinea (PNG) between Chinese managers and PNG employees. In-depth qualitative interviews were conducted with 14 participants: six Chinese managers and eight PNG employees. The findings show that primary orientation elements of face and power distance and situational features of labor laws and family obligations shape reported conflict communication strategies. PNG employees tended to submit to managers even when they felt wrongly accused given their cultural orientations and situational constraints. To express dissent, these employees often used indirect, passive resistance strategies. Chinese managers reported using competition to resolve conflicts. The resulting conflict outcomes are distrust and dissatisfaction and have potential negative implications for intercultural relations and organizational success. The study contributes to the CBSECM by illuminating some of the multilevel effects proposed in the model.

The Effectiveness of Dispute Resolution in Construction Services Outside of the Court

Fadia Fitriyanti & Wahyu Widodo

Available at SSRN: <https://ssrn.com/abstract=3487167> or <http://dx.doi.org/10.2139/ssrn.3487167> (August 2019)

Construction service is a sector which is quite vulnerable to dispute. Stated on Law Number 2 of 2017 on Construction Services Article 88 paragraph 2, namely in terms of deliberations if the parties cannot reach an agreement, they must go through the construction work contract. Government Regulation No. 29 of 2000 on Provision of Construction Services, Article 49 states in the implementation of dispute resolution in construction services outside of the court can proceed through the third party in the form of mediation, conciliation, arbitration through arbitration institution or ad-hoc arbitration. The method used in this research was normative juridical research derived from the literature study. This type of research, by its nature, is descriptive-analytical research. The interviewees included BANI (BANI arbitration centre), BADAPSKI (The Indonesian Centre for Arbitration and Alternative Dispute Resolution for Construction service), and the dispute board. The data analysis method was the statute approach. The results showed that according to study conducted by Sondra Dwiputra Paiding Lewa and Harijanto Setiawan, arbitration and APS occupied the top 4 ranking position in the dispute settlement of construction services compared to solving it through the court. It meant that ADR and arbitrations were more effective at resolving construction services disputes than solving it through courts. Unfortunately, in provinces and counties/cities, there were a lot of construction services contracts that proceeded through the courts to resolve service disputes. Construction mainly for projects using the budget of regional income and expenditure.

Toward Better Outcomes for Families Through Innovative Dispute Resolution Programs in England

Holly Dare, Carole Goodman, Rebecca John & Sarah Parsons
Family Court Review 57(3): 368-374 (July 2019)

This article explores and shares the learning from two of Cafcass' innovative dispute resolution pilot programs. The programs aim to improve outcomes for families against the backdrop of rising private law demand in England, while keeping the child at the center. The Positive co-Parenting Programme pilot provides a structured intervention to reduce conflict and promote timely resolution for children and families in complex cases. The Support with Making Child Arrangements pilot explores whether the provision of a package of support to parents ahead of the first court hearing can help them come to safe agreements about their children without the need for court intervention.

Diplomatic Chameleons: Language Style Matching and Agreement in International Diplomatic Negotiations

A. Burcu Bayram & Vivian P. Ta

Negotiation and Conflict Management Research 12(1): 23-40 (February 2019)

Linguistic style refers to how individuals put their words together. This study offers the first application of linguistic style analysis to international multilateral diplomatic negotiations. We hypothesize that agreement in multilateral negotiations is characterized by convergence of diplomats' linguistic styles whereas disagreement associates with divergence of linguistic styles. We test our claim using original data from the plenary sessions of the Constitutional Convention on the Future of the European Union (2002–2003). We evaluate linguistic style convergence by linguistic style matching (LSM) using the text analysis program Linguistic Inquiry and Word Count (LIWC). We find that linguistic style convergence among negotiators was higher in discussions on the legal personality of the European Union that ended with agreement and lower in negotiations on the definition of qualified majority voting that ended with disagreement. This study facilitates a richer understanding of how negotiators' language use influences negotiation dynamics in international multilateral diplomacy and encourages negotiation and conflict resolution scholars and practitioners to pay attention to how diplomats express their policy position in addition to what they say.

The Role of Experts and Scholars in Community Conflict Resolution: A Comparative Analysis of Two Cases in China

Lihua Yang

Negotiation and Conflict Management Research 12(1): 66-88 (February 2019)

In this article, I draw from two case studies to explore the role of experts and scholars (ES), as a special third party, in community conflict resolution in contemporary China. Findings include that local ES are more likely to play the roles as leaders, organizers of farmers, and as agents of government. Nonlocal ES are more likely to play the roles as information providers and as pure self-interest pursuers. This study also reveals that, although their knowledge and information are important, knowledge and information are only preconditions for ES's participation. Their social capital—rather than the knowledge and information they possess—differentiates the effectiveness of their participation in governance and the facilitation of community conflict resolution. Local ES with high social capital are more effective in

governance and facilitating community conflict resolution than nonlocal ES without high social capital.

Exploring Cultural Differences in the Extent to Which People Perceive and Desire Control

Matthew J. Hornsey, Katharine H. Greenaway, Emily A. Harris & Paul G. Bain

Personality and Social Psychology Bulletin 45(1): 81-92 (January 2019)

In a seminal theory piece, Weisz and colleagues argued that control over one's environment was less attainable and desirable in Japan than in America. Subsequently, many scholars have extrapolated from this argument to claim broad-based cultural differences in control: that Western/individualist cultures perceive and desire more personal control over their environment than do Eastern/collectivist cultures. Yet surprisingly little empirical research has put this claim to the test. To test this notion, in Study 1 we examined perceived control over one's life in 38 nationally representative samples ($N = 48,951$). In Study 2, we measured desire for control in community samples across 27 nations ($N = 4,726$). Together, the studies show lower levels of perceived and desired control in Japan than in any other nation. Over and above the Japan effect, there was no evidence for differences in perceived or desired control between individualist and collectivist nations, or between holistic and nonholistic nations.

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Final Offer as a First Choice? Police Arbitration: A New Zealand Case Study

Giuseppe Carabatta

Australasian Dispute Resolution Journal 29: 251-265 (January 2019)

Compulsory arbitration has become the chosen method of resolving disputes over wages and conditions for police and other emergency workers in Australia, Canada, the USA, Europe, and elsewhere. This is because emergency workers, by virtue of their essential status, cannot necessarily engage in industrial action such as strikes. In the police sector, New Zealand takes a unique approach to resolving such disputes by utilising a blend of mediation and 'final offer arbitration'. As this paper shows, New Zealand has seen more mutually acceptable negotiated outcomes and ensured the reliable provision of police services under this model. Ultimately though, as explained by interviews with leading practitioners, broader structural and environmental factors may in part explain New Zealand's success, suggesting it may not entirely be repeatable by police forces overseas.

An Empirical Analysis of 15 Years of Australian Domain Name Disputes

Andrew F. Christie, James Gloster & Sarah Goddard

Australian Intellectual Property Journal 30(1): 4-25 (2019)

The .au Dispute Resolution Policy ('auDRP') creates an online mandatory administrative procedure for resolving disputes about .au domain names that contain another's trademark. This study is the first – and, to date, the only – detailed quantitative analysis of every one of the 470 determinations made in the procedure's first 15 years of operation. By identifying the characteristics of each case and its decision-maker, and by analysing which of those are associated with particular outcomes, we provide previously-unknown information about the factors that contribute to a case's success, and about the procedure's integrity. We find that the rate at which cases succeed has not changed over time, and does not differ between the two service providers or between the most prolific panelists. When there is a statistically significant difference in the success rate, it is associated with a difference in the characteristics of the individual case – namely, that the complaint is based solely on a trademark rather than on a name alone or together with a trademark, or on a registered rather than an unregistered trademark, or that the complaint is not defended by the respondent. Importantly, these findings support the conclusion that, contrary to some commonly expressed opinions, the auDRP produces outcomes that are consistent and fair.

Impact of Directive 2013/11/EU on Consumer ADR Quality: Evidence From France and the UK

Alexandre Biard

Journal of Consumer Policy (2019)

One of the objectives of Directive 2013/11/EU was to promote high-quality consumer Alternative Dispute Resolution (ADR) schemes in the EU through the creation of certification processes and regular monitoring by Member States. To obtain and keep certification, ADR bodies must continuously comply with several binding requirements set down in the Directive testifying - among other things - of their impartiality, expertise, transparency, accessibility, as well as of the fairness, timeliness and effectiveness of their procedures. The objective of this regulatory architecture was to trigger some long-term effects on the procedural design and functioning of ADR bodies, and to enhance their credibility and legitimacy vis-à-vis consumers and traders. As such, the new rules have aimed to respond to the criticisms sometimes expressed about the way ADR providers operate, in particular concerns regarding schemes' lack of independence, limited accountability, and possible effects on due process. Yet doubts have been expressed about the ability of the Directive to secure a consistent approach fully supporting high-quality ADR in the EU. This paper intends to test these doubts against facts and evidence. Based notably on replies to a questionnaire sent to Competent Authorities, it zooms in on experiences in two Member States, namely France and the United Kingdom (more specifically for the latter in the civil aviation and non-regulated sectors). It highlights how the binding quality criteria have been working in practice, and the impacts that the Directive has had on ADR bodies in those Member States/sectors. It sheds light on several persisting issues, and makes some policy recommendations, which may be relevant for policymakers in France and the UK, but also in other Member States and at the EU level when further developing a sustainable framework for high-quality ADR. In 2019, the European Commission is expected to publish a report on the

implementation of the Consumer ADR Directive in all Member States. This contribution may be viewed as a first small step in that direction.

Towards High-Quality Consumer ADR: The Belgian Experience

Alexandre Biard

Available on SSRN at: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3297576 (2019)

Since the 1990s, the development of Consumer Alternative Dispute Resolution (CADR) schemes allowing consumers and traders to solve their disputes out-of-court has been an ever-growing phenomenon with increasing political importance at the European level. The EU regulatory framework for CADR started with informal measures and then evolved to more formal rules. Directive 2013/11/EU (the Consumer ADR Directive) has established a new regulatory framework with the intent to develop high-quality CADR schemes and to promote trust and confidence among consumers and traders. National 'Competent Authorities' are in charge of reviewing the quality of CADR providers and ensure that the quality requirements are met on an ongoing basis. This paper investigates the impact of the Consumer ADR Directive at Member States level, and more specifically uses Belgium as a case study. It notably builds on an online survey completed in Winter/Spring 2018 by the Belgian Competent Authority. The objectives of the paper are threefold: it explores how quality criteria have been working in practice in Belgium, it sheds some light on several persisting issues, and finally tries to look to the future by proposing some policy recommendations aimed at further strengthening the Belgian framework for high-quality CADR.

Education Without Representation: Cultural Fluency, Diversity, and Dispute Resolution in the Canadian Context

Kendrick Lo

Revue d'arbitrage et de médiation/Journal of Arbitration and Mediation (RAMJAM) 7(1): 65- (2018)

A recent analysis of neutrals affiliated with one of the largest providers of dispute resolution (DR) services in the United States revealed 25 per cent were women and seven per cent belonged to a minority group. Given Canada's stronger reputation for respecting diversity, one would reasonably expect broader representation within the Canadian DR profession. The lack of pertinent statistics, however, makes it difficult to judge. In an attempt to establish a baseline of information, the author analyzed the public rosters of three reputable pan-Canadian professional organizations. While he identified a relatively greater proportion of women on most rosters, the proportion of visible minorities was as low, if not lower than the American data suggest. For example, in one organization, 47 per cent of members were women but only seven per cent were identified as indigenous or a visible minority. The author observed that the Canadian DR profession currently does not reflect the population it could potentially serve.

Court-Referred Alternative Dispute Resolution: Perceptions of Members of the Judiciary: An Overview of the Results of a Study

Nicky J. McWilliam & Alexandra Grey

Australian Institute of Judicial Administration (commissioned research report), Sydney Law School Research Paper No. 18/29 (Available at SSRN:

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3178564)

This article presents an overview of the results of a study examining judicial attitudes to court-referred alternative dispute resolution (CADR), drawing on data collated from 104 judges (including magistrates) from the three tiers of NSW Courts, the Federal Court and the Federal Circuit Court. The study consisted of a questionnaire and semi-structured interviews that examined judicial engagement, perceived impact and importance, understanding and the outcomes of CADR. The overall participation rate was 30 per cent, ranging from 15 per cent of the Local Court bench, to 45 per cent of the NSW Supreme Court. The courts studied each have different functions and preside over disparate work requiring distinct CADR processes, but analysis reveals some important consistencies across these courts in relation to CADR, particularly a general engagement with CADR across the judiciary.

The overall results suggest that judges across the courts do consider CADR. The positive experience overall, even where some judges saw CADR as slightly increasing rather than decreasing their workload, confirms the potential for CADR to improve the efficiency, accessibility and outcomes for the courts. In the main, judges presiding over civil matters see CADR as usefully falling within their role, but the data also reveal factors that cause CADR to be perceived as inappropriate in some types of civil cases. Unsurprisingly, judges are generally more reluctant to consider CADR (including therapeutic interventions) in criminal matters; however, magistrates report strong acceptance of CADR practices in criminal proceedings.

The study analyses intersecting factors that contribute to judges' perceptions that CADR is inappropriate in certain kinds of case, factors that go beyond whether a matter is in a civil or criminal division. The key factors are the rank of the court (including whether or not it is appellate), the volume of casework, the timing of CADR within proceedings, lawyers' roles and court culture (including judges' awareness of what their fellow judges do and think in relation to CADR). This article therefore argues that CADR is never categorically or inherently useful (or inappropriate) and that court-by-court guidelines and training are important to increasing the consistency with which judges weigh up these intersecting factors.

CONFLICT THEORY/SYSTEMS DESIGN

Get Complicated: The Effects of Complexity on Conversations over Potentially Intractable Moral Conflicts

Katharina G. Kugler & Peter T. Coleman

Negotiation and Conflict Management Research 13(3): 211-230 (August 2020)

Conflicts over important moral differences can divide communities and trap people in destructive spirals of enmity that become intractable. But these conflicts can also be managed constructively. Two laboratory studies investigating the underlying social-psychological dynamics of more tractable versus intractable moral conflicts are presented, which tested a core proposition derived from a dynamical systems theory of intractable conflict. It portrays more intractable conflicts as those, which have lost the complexity inherent to more constructive social relations and have collapsed into overly simplified, closed patterns of thinking, feeling, and acting that resist change. Employing our Difficult Conversations Lab paradigm in which participants engage in genuine discussions over moral differences, we found that higher levels of cognitive, emotional, and behavioral complexity were associated with more tractable conversations. Whereas in a pilot study we examined conflicts that naturally became more/less intractable, in our main experiment, high versus low levels of cognitive complexity were induced.

Addressing Organizational Cultural Conflicts in Engineering with Design Thinking

Sean M. Eddington, Danielle Corple, Patrice M. Buzzanell, Carla Zoltowski & Andrew Brightman

Negotiation and Conflict Management Research 13(3): 263-284 (August 2020)

The present study examined how design thinking processes help to facilitate difficult conversations for fostering organizational change toward greater inclusion and equity in undergraduate engineering programs. Regardless of the type of organization or institution, sustainable diversity and inclusion integration requires difficult conversations that can correspond with locale-specific interventions and deep cultural transformation. We led a series of design sessions with stakeholders from two undergraduate engineering programs at a large, Midwestern, research university aimed at creating prototype solutions to diversity and inclusion problems. Following the sessions, we conducted interviews with 19 stakeholders to understand their perceptions of the design process in facilitating both difficult conversations and in enacting meaningful change. Our study uncovered that organizational cultures impacted participants' perceptions of change possibilities and their role in change. We conclude with recommendations for adopting design practices and communication-as-design processes to create structures and interactive approaches for facilitating conversations toward inclusionary organizational change.

Culture and Social Hierarchy: Collectivism as a Driver of the Relationship Between Power and Status

Christopher To, Lisa M. Leslie, Carlos J. Torelli & Jennifer L. Stoner

Organizational Behavior and Human Decision Processes 157: 159-176 (March 2020)

Power and status are distinct bases of social hierarchy with unique effects. Yet evidence suggests wide variation in whether perceptions of status and power are highly correlated versus relatively distinct. We use a cross-cultural lens to explain this variation and suggest cultural orientation shapes the effect of power on perceived status and vice versa. Six studies using various methodologies and samples demonstrate that: (1) individuals high (versus low) on vertical collectivism are more likely to perceive high power targets as also high in status; (2) individuals high (versus low) on horizontal collectivism are more likely to perceive high status targets as also high in power; and (3) cultural differences in the power-status relationship qualify prior conclusions regarding established effects of power and status on one downstream consequence—namely, fairness enacted towards others. Implications for theory, practice, and future research are discussed.[could also be listed in “Around the World”]

Conflict Style Associations with Cooperativeness, Directness, and Relational Satisfaction: A Case for a Six-Style Typology

Laura K. Guerrero

Negotiation and Conflict Management Research 13(1): 24-43 (February 2020)

Past research has been inconsistent in identifying the number and type of conflict styles individuals perceive themselves to use. Many typologies of conflict styles are built on the premise that level of cooperation versus competition, as well as directness versus indirectness, underlie various conflict styles. Grounded in a communication perspective, the present study uses dyadic data from 256 romantic couples to examine how self-reported tendencies to use each of six conflict styles—collaborating, compromising, competitive fighting, yielding, avoiding, and indirect fighting—associate with how (un)cooperative and (in)direct partners generally perceive

actors to be during conflict, as well as how relationally satisfied both members of the dyad are. The associations that emerged suggest each of the six styles has a unique profile, that a comprehensive typology of conflict styles should include indirect fighting as well as a more neutral avoiding style, and that compromising is a weak form of collaborating that is lower in cooperativeness and directness.

When the SUIT Fits: Constructive Controversy Training in Face-to-Face and Virtual Teams

Thomas A. O'Neill, Samantha Hancock, Matthew J. W. McLarnon & Taylor Holland
Negotiation and Conflict Management Research 13(1): 44-59 (February 2020)

One of the major reasons organizations have turned to work teams is because challenges are too complex, and too large in scope, for any single individual to address. As a result, teams must engage in information sharing, exchange, and processing that optimize the use of each team member's knowledge. Accordingly, we invoked a framework called SUIT, based on the theory of constructive controversy, that teaches teams to effectively share, understand, integrate, and make team decisions. We also considered whether a training program developed in accordance with the SUIT principles has stronger effects for virtual teams (VTs) relative to face-to-face (FtF) teams, given that VTs tend to need more information sharing and decision-making support. Using a fully crossed and balanced experimental design, we found that teams receiving SUIT training reported greater constructive controversy levels and, in turn, higher objective task performance. The communication medium did not moderate this effect.

When Silver is Gold: Forecasting the Potential Creativity of Initial Ideas

Justin M. Berg

Organizational Behavior and Human Decision Processes 154: 96-117 (September 2019)

Past research on idea evaluation has focused on how individuals evaluate the creativity of finalized ideas. But idea evaluation is also important early in the creative process, when individuals must forecast the potential creativity of rough initial ideas as they decide which to develop. Using five experiments, this paper examines individuals' accuracy in forecasting the potential creativity of their initial ideas. Participants ranked the potential creativity of their initial ideas before developing them into final ideas. Results suggest that participants tended to under-rank their highest-potential idea. The initial idea that participants thought was their second best tended to actually be their best idea in the end. Broadly, the results suggest that creators exhibit myopia when forecasting the potential creativity of their initial ideas, leading them to overlook their most promising initial ideas. However, forecasting at a higher (more abstract) construal level helped participants identify their best initial idea.

Thanks for Your Ideas: Gratitude and Team Creativity

Nashita Pillay, Guihyun Park, Ye Kang Kim & Sujin Lee

Organizational Behavior and Human Decision Processes 156: 69-81 (January 2020)

Many ideas and products are borne out of collaborative efforts among members of teams and workgroups, and thus finding ways to improve team creativity is of significant interest. Adopting a collective information processing perspective, we argue that gratitude intervention for teams would serve as a powerful facilitator for information elaboration—whereby team members engage in more deliberate and thorough integration of others' ideas—and, in turn, enhance team creativity. Study 1 found that teams in the gratitude condition increased

information elaboration more than those in the neutral condition. Study 2 compared teams in gratitude emotion and teams in positive emotion in general. Teams in the gratitude condition generated highly creative ideas, due to more information elaboration. On the other hand, teams in the positive emotion condition expressed greater enthusiasm and confidence in their ideas and immediately accepted the ideas suggested, which led to an increase in the quantity of ideas. Our findings suggest that gratitude facilitates intellectual exchange in groups, which in turn enhances team creativity. We discuss our findings' implications for team creativity and potential directions for future research.

Challenges to Traditional Narratives of Intractable Conflict Decrease Ingroup Glorification

Quinnehtukqut McLamore, Levi Adelman & Bernhard Leidner

Personality and Social Psychology Bulletin 45(12): 1702-1716 (December 2019)

Conflict narratives are cornerstones of group identity, but often facilitate violence by framing the group's actions in ways that foster defensive forms of group identification (i.e., glorification). Three experiments tested whether alternative narratives inclusive of the ingroup's *and* the adversarial group's suffering can reduce glorification. Israeli Jews (Study 1) and Americans (Study 2) reported less glorification after reading inclusive narratives rather than narratives that dismiss the outgroup's suffering. Study 3 found that through reducing glorification, inclusive narratives indirectly weakened support for retributive justice and militaristic policies and strengthened support for reconciliation. These effects were specific to people high in both (preexisting) glorification and attachment—people identified by prior research as the strongest supporters of violent approaches to conflict. These findings suggest that alternative narratives can reduce glorification by challenging the myopic focus of traditional conflict narratives on ingroup victimization, helping societies move beyond intractable conflict toward lasting peace.

On Being Nice and Effective: Work-Related Emotional Intelligence and its Role in Conflict Resolution and Interpersonal Problem-Solving

Sukumarakurup Krishnakumar, Buddhika Perera, Kay Hopkins & Michael D. Robinson

Conflict Resolution Quarterly 37(2): 147-167 (Winter 2019)

People are thought to differ in their abilities to perceive, understand, and manage emotions, a construct termed emotional intelligence (EI). North Dakota emotional abilities test (NEAT), a test of EI based on the situation judgment test method, assesses EI applied to work settings. Three survey-based studies examined and found that NEAT scores correlated positively with constructive motivations and behavioral intentions (Study 1; $n = 94$), conflict handling strategies favoring mutual interests (Study 2; $n = 92$), and helpful workplace behaviors, particularly under stressful conditions (Study 3; $n = 90$). These findings could possess particular value in domains such as conflict resolution and mediation.

Hand-in-Hand Combat: Affectionate Touch Promotes Relational Well-Being and Buffers Stress During Conflict

Brittany K. Jakubiak & Brooke C. Feeney

Personality and Social Psychology Bulletin 45(3): 431-446 (March 2019)

Relational conflict has a considerable impact on relational and personal well-being, but whether that impact is positive or negative depends on how the conflict is managed. Individuals

struggle to have constructive conflicts that protect their relationships and avoid excess stress, which can lead to declines in relationship quality over time. The current set of experiments tested whether a brief touch intervention would promote relational well-being and prevent stress during couple conflict discussions. Results indicated that engaging in touch prior to and during conflict was effective to improve couple-members' conflict behavior and to buffer stress in real (Experiment 1) and imagined (Experiments 2a and 2b) contexts. The results of these experiments suggest that touch may be a simple yet effective intervention for improving couple conflict discussions. In addition, we provide initial evidence that enhanced state security and cognitive interdependence serve as mechanisms underlying these effects.

People Systematically Update Moral Judgments of Blame

Andrew E. Monroe & Bertram F. Malle

Journal of Personality and Social Psychology 116(2): 215-236 (February 2019)

Six experiments examine people's updating of blame judgments and test predictions developed from a socially regulated blame perspective. According to this perspective, blame emerged in human history as a socially costly tool for regulating other's behavior. Because it is costly for both blamers and violators, blame is typically constrained by requirements for "warrant"—evidence that one's moral judgment is justified. This requirement motivates people to systematically process available causal and mental information surrounding a violation. That is, people are relatively calibrated and evenhanded in utilizing evidence that either amplifies or mitigates blame. Such systematic processing should be particularly visible when people update their moral judgments. Using a novel experimental paradigm, we test 2 sets of predictions derived from the socially regulated blame perspective and compare them with predictions from a motivated-blame perspective. Studies 1–4 demonstrate (across student, Internet, and community samples) that moral perceivers systematically grade updated blame judgments in response to the strength of new causal and mental information, without anchoring on initial evaluations. Further, these studies reveal that perceivers update blame judgments symmetrically in response to exacerbating and mitigating information, inconsistent with motivated-blame predictions. Study 5 shows that graded and symmetric blame updating is robust under cognitive load. Lastly, Study 6 demonstrates that biases can emerge once the social requirement for warrant is relaxed—as in the case of judging outgroup members. We conclude that social constraints on blame judgments render the normal process of blame well calibrated to causal and mental information, and biases may appear when such constraints are absent.

Intergroup Conflict Self-Perpetuates Via Meaning: Exposure to Intergroup Conflict Increases Meaning and Fuels a Desire For Further Conflict

Daniel R. Rothenberg, Thomas C. O'Brien, Antoine Roblain, Laura De Guissmé, Peggy Chekroun & Bernhard Leidner

Journal of Personality and Social Psychology 116(1): 119-140 (January 2019)

We investigated whether violent conflict provides individuals with a sense of meaning that they are hesitant to let go of, thus contributing to the perpetuation of intergroup conflict. Across a wide variety of contexts, we found that making intergroup conflict salient increased the meaning people found in conflict and, in turn, increased support for conflict-perpetuating beliefs, ideologies, policies, and behaviors. These effects were detected among participants exposed to reminders of intergroup conflict (the American Revolutionary War and the U.S.-led campaign against ISIS; Studies 1A and 1B), participants living through actual intergroup conflict (the 2014

Israel–Gaza war; Study 2), and participants who perceived actual intergroup conflicts to be larger versus smaller in scope (the November 2015 Paris attacks; Studies 3 and 4). We also found that directly manipulating the perceived meaning in conflict (in the context of the 2014 NYC “hatchet attack”; Study 5) led to greater perceived meaning in life in general and thereby greater support for conflict escalation. Together, these findings suggest that intergroup conflict can serve as a source of meaning that people are motivated to hold on to. We discuss our findings in the context of the meaning making and threat compensation literatures, and consider their implications for perspectives on conflict escalation and resolution.

Curiosity Made the Cat More Creative: Specific Curiosity as a Driver of Creativity

Lydia Paine Hagtvedt, Karyn Dossinger, Spencer H. Harrison & Li Huang

Organizational Behavior and Human Decision Processes 150: 1-13 (January 2019)

The present research examines the causal relationship between specific curiosity and creativity. To explicate this relationship, we introduce the concept of *idea linking*, a cognitive process that entails using aspects of early ideas as input for subsequent ideas in a sequential manner, such that one idea is a stepping stone to the next. Study 1 demonstrated the causal effect of specific curiosity on creativity. Study 2, a field study of artisans selling handmade goods online, found that experiencing specific curiosity predicts greater next-day creativity. Study 3 demonstrated idea linking as a mechanism for the effect of specific curiosity on creativity. Study 4 further established the impact of idea linking on creativity, finding that it boosted creativity beyond the well-established intervention of brainstorming. We discuss specific curiosity as a state that fuels creativity through idea linking and idea linking as a novel technique for creative idea generation.

The Long-Run Effects of Communication as a Conflict Resolution Mechanism

Gerald Eisenkopf

Journal of Economic Behavior & Organization 153: 1-18 (September 2018)

The paper studies an experimental conflict in a repeated game and tests the robustness of communication as an *intermediate* conflict resolution instrument. The results show a strong and persistent impact of communication. Most conflict parties refrain from conflict expenditures even after the opportunity for communication has expired. Third party involvement with punishment options does not enhance this effect while contesting one prize rather than multiple prizes reduces it. Conflict resolution is less successful even in the long term if initial conflict intensity is rather high.

Beyond Reciprocity: A Conservation Of Resources View on the Effects of Psychological Contract Violation on Third Parties

Hong Deng, Jacqueline Coyle-Shapiro & Qian Yang

Journal of Applied Psychology 103(5): 561-577 (May 2018)

Building on conservation of resources theory, we cast resource depletion as a novel explanatory mechanism to explain why employees’ experience of psychological contract violation results in harm to third parties outside the employee-organization exchange dyad. This resource-based perspective extends and complements the dominant social exchange perspective which views employee reactions to psychological contract violation as targeting the source of the violation—the organization. The present article reports on 3 studies. Study 1 conducted an experiment with 109 participants and established the main effect of psychological contract

violation on resource depletion. Study 2, using survey data from 315 medical employees and their immediate supervisors, found that after controlling for the social exchange mechanism (i.e., revenge cognitions toward the organization), resource depletion mediated the indirect effects of psychological contract violation on supervisory reports of employees' interpersonal harming toward coworkers and decision-making vigilance for clients. Further, we found that organizational and professional identification played opposing moderating roles in the effects of violation on resource depletion and consequently behavioral outcomes, such that these mediated relationships were stronger when organizational identification was high, and weaker when professional identification was high. Study 3 replicated all the results obtained in Studies 1 and 2 with time-lagged data from 229 medical employees across 3 measurement points. The findings confirm that resource depletion is a more effective explanation of the consequences of violation on third parties than revenge cognitions, although both are useful in predicting organization-directed outcomes (i.e., civic virtue and organizational rule compliance).

The Listener Sets the Tone: High-Quality Listening Increases Attitude Clarity and Behavior-Intention Consequences

Guy Itzchakov, Kenneth G. DeMarree, Avraham N. Kluger & Yaara Turjeman-Levi
Personality and Social Psychology Bulletin 44(5): 762-778 (May 2018)

We examined how merely sharing attitudes with a good listener shapes speakers' attitudes. We predicted that high-quality (i.e., empathic, attentive, and nonjudgmental) listening reduces speakers' social anxiety and leads them to delve deeper into their attitude-relevant knowledge (greater self-awareness). This, subsequently, differentially affects two components of speaker's attitude certainty by increasing attitude *clarity*, but not attitude *correctness*. In addition, we predicted that this increased clarity is followed by increased attitude-*expression intentions*, but not attitude-*persuasion intentions*. We obtained consistent support for our hypotheses across five experiments (including one preregistered study), manipulating listening behavior in a variety of ways. This is the first evidence that an interpersonal variable, unrelated to the attitude itself, can affect attitude clarity and its consequences.

Engineering Informal Institutions: Long Run Impacts of Alternative Dispute Resolution on Violence and Property Rights in Liberia

Alexandra Hartman, Robert Blair & Christopher Blattman

National Bureau of Economic Research, available at <https://www.nber.org/papers/w24482> (April 2018)

Informal institutions govern property rights and disputes when formal systems are weak. Well-functioning institutions should help people reach and maintain bargains, minimizing violence. Can outside organizations engineer improvements and reduce violent conflicts? Will this improve property rights and investment? The authors experimentally evaluate a UN and civil society mass education campaign to promote alternative dispute resolution (ADR) practices and norms in rural communities, where violent land disputes are common. Prior work showed a fall in violence and unresolved disputes within one year. The authors return after three years to test for sustained impacts and channels. Treated communities report large, sustained falls in violent disputes and a slight shift towards nonviolent norms. Treated residents also report larger farms, though overall effects on property rights and investments are mixed. Politically-connected residents report more secure property rights while those with fewer connections feel less secure.

Sustained social engineering is feasible but politics shapes distributional outcomes. [DRM SUMMER 2018]

Paradoxical Thinking as a Conflict-Resolution Intervention: Comparison to Alternative Interventions and Examination of Psychological Mechanisms

Boaz Hameiri, Eden Nabet, Daniel Bar-Tal & Eran Halperin

Personality and Social Psychology Bulletin 44(1): 122-139 (January 2018)

Conflict-resolution interventions based on the paradoxical thinking principles, that is, expressing amplified, exaggerated, or even absurd ideas that are congruent with the held conflict-supporting societal beliefs, have been shown to be an effective avenue of intervention, especially among individuals who are adamant in their views. However, the question as to why these interventions have been effective has remained unanswered. In the present research, we have examined possible underlying psychological mechanisms, focusing on identity threat, surprise, and general disagreement. In a small-scale lab study and a large-scale longitudinal study, we compared paradoxical thinking interventions with traditional interventions based on providing inconsistent information. The paradoxical thinking interventions led rightists to show more unfreezing of held conflict-supporting beliefs and openness to alternative information, whereas the inconsistency-based interventions tended to be more effective with the centrist participants. Both studies provide evidence that the effects were driven by identity threat, surprise, and lower levels of disagreement.

Becoming the Change We Wish to See: The Unexpected Benefits of Conflict Resolution Work

Susan Raines

Conflict Resolution Quarterly 35:319–327 (2018)

Mediators, ombuds, and other peace workers generally see their work as a calling. They pursue this work because of a desire to help others while promoting healing and reconciliation. While their work helps clients, it frequently results in deeply personal transformations, changing the ways in which they relate to and communicate with their family, colleagues, and community members. After hearing anecdotal reports of these transformations, I designed this study to learn more about how the work of conflict resolution affects its practitioners. Data for this study come from interviews and surveys of peace workers in various settings.

How Do Experts Differ from Politicians in Understanding a Conflict? A Comparison of Track I and Track II Actors

Özden Melis Uluğ & J. Christopher Cohrs

Conflict Resolution Quarterly 35(2): 147-172 (Winter 2017)

This article explores the conflict understandings of Track II actors in the Kurdish conflict context and compares them with conflict understandings of Track I actors to identify similarities and differences between these actors. The results highlight two different conflict understandings among Track II actors: a democracy and identity viewpoint, and a democracy and economy viewpoint. Integrating these results with previous results for Track I actors highlights four different conflict understandings across Track I and Track II actors: a Kurdish rights viewpoint, a democracy and freedom viewpoint, a conservative-religious viewpoint, and a terror viewpoint.

The Humanizing Voice: Speech Reveals, and Text Conceals, a More Thoughtful Mind in the Midst of Disagreement

Juliana Schroeder, Michael Kardas & Nicholas Epley
Psychological Science 28(12): 1745-1762 (October 2017)

A person's speech communicates his or her thoughts and feelings. We predicted that beyond conveying the contents of a person's mind, a person's speech also conveys mental capacity, such that hearing a person explain his or her beliefs makes the person seem more mentally capable—and therefore seem to possess more uniquely human mental traits—than reading the same content. We expected this effect to emerge when people are perceived as relatively mindless, such as when they disagree with the evaluator's own beliefs. Three experiments involving polarizing attitudinal issues and political opinions supported these hypotheses. A fourth experiment identified paralinguistic cues in the human voice that convey basic mental capacities. These results suggest that the medium through which people communicate may systematically influence the impressions they form of each other. The tendency to denigrate the minds of the opposition may be tempered by giving them, quite literally, a voice.

Breaking Silos: A Field Experiment on Relational Conflict Management in Cross-Functional Teams

Smaranda Boros, Lore van Gorp, Brecht Cardoen & Robert Boute
Group Decision and Negotiation 26(2): 327-377 (2017)

In this paper we investigate how effective conflict management in conflict asymmetry situations impacts the quality of cross-functional management teams' performance. During a 5-day business simulation, we explore the consequences of the relational conflicts and conflict asymmetry experienced by team members. We use two different measures of conflict asymmetry: the traditional group conflict asymmetry measurement of Jehn (Adm Sci Q 40:256–282, 1995) and a social networks method. We find that when some team members evoke more conflict than others, this affects the evolution of team dynamics (and ultimately the performance of the team) even more than high levels of conflict altogether; however, group emotional awareness can mitigate this negative effect and improve the team performance through the appropriate use of conflict management strategies. Since group emotional awareness can be fostered and trained within teams, this is of practical value to improve the performance of cross-functional management teams.

Why and How Businesses Use Planned Early Dispute Resolution

John Lande & Peter W. Benner
University of St. Thomas Law Journal 13: 248-296 (2017)

This article reports the results of an empirical inquiry analyzing why some businesses adopt “planned early dispute resolution” (PEDR) systems when most other businesses probably do not do so. PEDR systems enable parties and their lawyers to resolve disputes favorably and efficiently as early as reasonably possible. They involve strategic planning for preventing conflict and handling disputes promptly as they arise rather than dealing with them ad hoc. One might assume that using a PEDR system should be a “no-brainer” for businesses that regularly litigate because litigation-as-usual undermines many business interests such as efficiency, protection of reputations and relationships, control of disputing and business operations generally, and risk management, among others. Although this seems like a plausible

assumption, this study indicates that it is problematic for multiple reasons. Yet some inside counsel, who are key players in developing PEDR systems, have been able to overcome common barriers to adoption of these systems.

The Shifting Role of a Document in Managing Conflict and Shaping the Outcome of a Small Group Meeting

Joan Kelly Hall & Emily Rine Butler

Text and Talk 37(5): 615-638 (August 2017)

Small group project work often requires students to meet outside of class. It is important that these meetings be efficacious, as the resulting projects typically figure into students' grades. The challenge is that, unlike in more formal meetings, there is typically no designated institutional authority to manage their work together. In peer meetings students have equal participatory rights; thus, formulating understandings and managing conflict can be especially delicate matters to accomplish. In this single case analysis of a small group project meeting, we examine the shifting role of a document in resolving conflict that threatens the group's work. The analysis shows how, over the course of the meeting, a personal document created during the meeting subsequently becomes oriented to by the participants as an official formulation of their decisions and an authoritative directive to complete their tasks. This shift in orientation to the document allows a way out of the conflict and the meeting to come to a successful conclusion. In addition to providing data on conflict resolution in meetings without an official leader, the finding on the changing role of a document adds to understandings of how actions are accomplished through the construction and manipulation of objects.

Whoever is Not With Me is Against Me: The Costs of Neutrality Among Friends

Alex Shawa, Peter DeScioli, Anam Barakzaia & Robert Kurzban

Journal of Experimental Social Psychology 71: 96-104 (July 2017)

Although friends provide valuable help and support, they can also entangle us in costly conflicts. In three studies, we investigate how people react when they are in a dispute with another person and their friend opposes them, supports them, or remains neutral. As expected, participants felt negative toward a friend who sided against them and positive toward a friend who sided with them. However, we were most interested in how people react to a friend's neutrality. People might view neutrality as a fair and positive way to avoid escalating conflict, but they could also see it as shirking one's duties to support a friend. In line with a recent alliance model of friendship, we predicted and found support for the latter: participants reacted negatively toward a friend who remained neutral, in fact just as negatively as toward a friend who actively opposed them. That is, participants' felt similar to the Biblical aphorism, "whoever is not with me is against me." We further found that participants' negative response to neutrality was particularly strong when a close friend remained neutral during a dispute with a distant friend, compared to a dispute with an equally close friend. We discuss the implications of these findings for understanding multilateral conflicts among multiple friends.

“Switching On” Creativity: Task Switching Can Increase Creativity By Reducing Cognitive Fixation

Jackson G. Lu, Modupe Akinola & Malia F. Mason

Organizational Behavior and Human Decision Processes 139: 63-75 (March 2017)

Whereas past research has focused on the downsides of task switching, the present research uncovers a potential upside: increased creativity. In two experiments, we show that task switching can enhance two principal forms of creativity—divergent thinking (Study 1) and convergent thinking (Study 2)—in part because temporarily setting a task aside reduces cognitive fixation. Participants who continually alternated back and forth between two creativity tasks outperformed both participants who switched between the tasks at their discretion and participants who attempted one task for the first half of the allotted time before switching to the other task for the second half. Importantly, Studies 3a–3d reveal that people overwhelmingly fail to adopt a continual-switch approach when incentivized to choose a task switching strategy that would maximize their creative performance. These findings provide insights into how individuals can “switch on” creativity when navigating multiple creative tasks. [DRM Summer 2017]

The Effect of Perspective-Giving on Postconflict Reconciliation. An Experimental Approach

Juan E. Ugarriza & Enzo Nussio

Political Psychology 38(1): 3-19 (February 2017)

Discussion groups are a promising tool for bridging the divide between former conflict antagonists. However, such groups do not always produce the desired outcome of improved attitudes, even when they meet the conditions generally seen as favoring positive interaction. In this article, we examine specific discussion protocols that mitigate polarization risks while fostering reconciliation. Using a randomized, controlled design, we formed a pool of 429 ex-combatants and members of conflict-affected communities in Colombia. Participants were asked to join heterogeneous groups and discuss their proposals for the future of Colombia. Overall, community members improved their attitudes towards ex-combatants significantly, while ex-combatants’ attitudes toward community members do not tend to polarize. Those participants who were randomly assigned to a perspective-giving treatment protocol (where they were asked to refer to their personal experience and perspective) consistently improved their intergroup attitudes towards ex-combatants, and by a proportionally higher percentage than those taking part under argumentation and no-treatment control conditions. [DRM Summer 2017]

Does Strategic Kindness Crowd Out Prosocial Behavior?

Åshild A. Johnsen & Ola Kvaløy

Journal of Economic Behavior & Organization 132(A): 1-11 (December 2016)

In repeated games, it is hard to distinguish true prosocial behavior from strategic behavior. In particular, a player does not know whether a reciprocal action is intrinsically or strategically motivated. In this paper, we experimentally investigate the relationship between intrinsic and strategic reciprocity by running a two-period repeated trust game. In the “strategic treatment” the subjects know that they will meet twice, while in the “non-strategic treatment” they do not know and hence the second period comes as a surprise. We find that subjects anticipate strategic reciprocity, and that intrinsic reciprocity is rewarded. In fact, the total level of cooperation, in which trust is reciprocated, is higher in the non-strategic treatment. This indicates

that strategic reciprocity crowds out intrinsic reciprocity: If one takes the repeated game incentives out of the repeated game, one sees more cooperation and higher social surplus.

Conflict at Work, Negative Emotions, and Performance: A Diary Study

Sonja Rispens & Evangelia Demerouti

Negotiation and Conflict Management Research 9(2): 103–119 (May 2016)

This study examines how daily conflict events at work affect people's active (anger, contempt) and passive (sadness, guilt) negative emotions and in- and extra-role performance. We introduce the concept of conflict detachment and examined whether this coping strategy alleviates the degree of negative emotions a person feels due to a conflict experience. Sixty-two individuals from various professions in the Netherlands provided questionnaire and daily survey measures during five consecutive workdays. Multilevel analyses showed that daily relationship and process conflict experiences at work were positively related to daily negative emotions. In addition, the results demonstrated a lagged effect of passive negative emotions: feelings of guilt and sadness predicted lower in-role and extra-role performance the following day. We also found that conflict detachment moderated the relationship between daily conflict and negative emotions. We discuss the implications of our findings for organizational practice and suggest possible ways for future research.

Commitment Problems in Conflict Resolution

Erik O. Kimbrough, Jared Rubin, Roman M. Sheremeta & Timothy W. Sheilds

Journal of Economic Behavior and Organization 112: 33-45 (April 2015)

Commitment problems are inherent to non-binding conflict resolution mechanisms, since an unsatisfied party can ignore the resolution and initiate conflict. We provide experimental evidence suggesting that even in the absence of binding contractual agreements individuals often avoid conflict by committing to the outcome of a conflict resolution mechanism. Commitment problems are mitigated to a greater extent for groups that opt-in to the conflict resolution mechanism, but only when opting-in is costly. Although conflict rates are higher when opting-in is costly than when it is free or exogenously imposed, commitment problems are greatly reduced among those groups who choose to opt-in.

Are Federal Labor-Management Partnerships Decreasing Conflict? Evidence from the Last Eight Years of Reported Data

Ashley M. Alteri

Conflict Resolution Quarterly 33(1): S67-S93 (Winter 2015)

In December 2009, President Obama signed Executive Order 13522, initiating a formal period during which the federal government has been acting under a declared labor-management partnership. Researchers and practitioners believe these partnerships can result in substantial benefits to the organization. However, this article's analysis of an original data set containing agency data on labor-management collaboration and conflict over time indicates that partnerships are not associated with changes in conflict. Instead, participation in labor-management pilot projects weakly predicts a decrease in conflict. Qualitative data from union officials suggest that this finding could be because the partnerships do not represent true labor-management collaboration. [DRM Summer 2016]

Two-Group Dynamic Conflict Scenarios: “Toy Model” with a Severity Index

Sanda Kaufman & Miron Kaufman

Negotiation and Conflict Management Research, 8: 41–55 (January 2015)

This article draws on several research domains and disciplines—social psychology, models of complex systems, and planning scenario analysis—to propose a “toy” model of the dynamics of intergroup conflicts. The ingroup–outgroup conflict literature supports the notion that inside groups in conflict there are subgroups of intransigents seeking to “fight it out,” and flexibles seeking avenues for settlements. There is also support for the intransigents and flexibles in the two groups being susceptible to each other's goading to escalate conflicts or entreaties to reach agreement. However, since two-group conflicts are embedded in complex systems with which they interact, it is difficult to predict outcomes and to assess the chances that intervention strategies might succeed or fail. We propose to use the model of two-group conflicts based on the mutual susceptibilities of flexibles and intransigents (Kaufman & Kaufman, 2013) to construct toy model scenarios of possible conflict trajectories. For each scenario, we compute a Severity Index for Conflicts (SIC) that captures the likelihood that it will end in confrontation (rather than agreement). We offer some examples of intranational and international conflicts and show how the scenarios can be analyzed qualitatively to explore the range of possible outcomes. Further developments will include sensitivity analyses for various assumptions and asking “what if” questions that can inform strategies of response and intervention.

Creative Synthesis: Exploring the Process of Extraordinary Group Creativity

Sarah Harvey

Academy of Management Review 39(3): 324–343 (2014)

This article provides insight into how some groups achieve extraordinary levels of creativity by reconsidering the collective process through which new ideas develop. Previous research has been premised on a model in which idea generation stimulated by divergent input increases the variance in ideas a group generates and therefore increases the chance that one of the group's ideas will be a radical, breakthrough creative product. In contrast, I present a dialectical model in which the integration of group members' perspectives (which I label creative synthesis) is the foundation for new ideas. I propose that the process of creative synthesis improves the chance that each of a group's ideas is a breakthrough. I elaborate the process facilitators of creative synthesis and the implications of the dialectical model for understanding extraordinary group creativity. Creative synthesis provides an alternative way for groups to combine their cognitive, social, and environmental resources into extraordinary output.

Institutionalizing Sustainable Conflict Management in Organizations: Leaders, Networks, and Sensemaking

Leigh Anne Liu, Lin Inlow & Jing Betty Feng

Conflict Resolution Quarterly, 32: 155–176 (2014)

We investigated the process and outcomes of a systematic approach to institutionalize conflict management in a large public nonprofit organization. Using longitudinal and multilevel field data, we were able to identify the effects of the institutionalization process from multiple perspectives. We hypothesized and found the combination of three critical social factors—leadership, construction and maintenance of social networks, and the sensemaking processes—in the diffusion of both codified and tacit knowledge about conflict management. Also, social

construction supplements structural factors in the institutionalization process of conflict management practices.

Corporate Communication and Worker Perceptions of Conflict Management and Justice

Katharina G. Kugler & Felix C. Brodbeck

Negotiation and Conflict Management Research 7(4): 265–281 (November 2014)

Organizations are well advised to develop a conflict culture promoting constructive conflict management and cooperation. But what does such a culture look like? Research from international and political relations has demonstrated that the level of integrative complexity (IC) as disseminated in political messages is an important factor in the context of conflict management. In our research, we hypothesize that, similar to political messages, corporate communication, which emphasizes a complex (i.e., differentiated and integrated) way of understanding multidimensional issues, is connected to cooperative conflict management and related variables like perceptions of organizational justice. Results of a multilevel field study support this proposition. Whereas the level of organizational IC was assessed by rating organizations' communication (specifically their vision or mission statements published on the Internet), perceptions of conflict management and justice were assessed by asking employees. The study emphasizes the utility of addressing organizational level variables in relation to organizational members' perceptions.

Conflict Settlement, and the Shadow of the Future

Michael McBride & Stergios Skaperdas

Journal of Economic Behavior and Organization 105: 75-89 (September 2014)

We examine a conflictual setting in which adversaries cannot contract on an enforcement variable (arms) and where the future strategic positions of adversaries are very different when there is open conflict than when there is settlement. We show that, as the future becomes more important in this setting, open conflict becomes more likely than settlement. We demonstrate the theoretical robustness of this finding and test it in a laboratory experiment. As predicted, we find that subjects are more likely to engage in destructive conflict as the future becomes more important.

The Serial Reproduction of Conflict: Third Parties Escalate Conflict Through Communication Biases

Tiane L. Lee, Michele J. Gelfand & Yoshihisa Kashima

Journal of Experimental Social Psychology 54: 68-72 (September 2014)

The authors apply a communication perspective to study third party conflict contagion, a phenomenon in which partisan spectators to others' disputes not only become involved in, but escalate, the dispute to a multitude of others. Using a research method called serial reproduction, the authors demonstrate the role of third parties' communication biases in conflict escalation, revealing that successive generations of partisan observers share and reproduce conflict narratives that become increasingly biased in their moral framing, attributions for the conflict, evaluations of the disputing parties, and quest for revenge. Despite equal fault between the disputing parties at the beginning, these communication biases increased, rather than subsided, with each iteration throughout communication chains, cumulating in distortions and group biases far above and beyond initial ingroup favoritism. In the paper the authors discuss the implications for strategies to de-bias transmission of conflict information. [DRM Winter 2015]

Argumentativeness, Avoidance, Verbal Aggressiveness, and Verbal Benevolence as Predictors of Partner Perceptions of an Individual's Conflict Style

Laura K. Guerrero & Michael A. Gross

Negotiation and Conflict Management Research 7(2): 99-120 (May 2014)

This study addressed two main questions. First, are the traits of argumentativeness, verbal aggressiveness, avoidance, and verbal benevolence reflected in conflict styles such that they are perceived by others? Second, how do these traits predict the five conflict styles in the dual concern model? These questions were tested using dyadic data from a simulated downsizing activity. Results showed that participants perceived their partners differently depending on the traits their partners endorsed. For example, people who reported being avoidant or verbally aggressive were less likely to be perceived as using the compromising style. Overall, the results suggested that the four traits investigated in this study are likely to be associated with observable behavior. Findings also demonstrated that these traits help differentiate the five conflict styles in more nuanced ways than predicted by the dual concern model. Finally, the results supported the idea that conflict styles are not only shaped by one's own traits but also by the traits of others and the interaction between two people's traits.

Individual Perceptions of Task Conflict And Relationship Conflict

Stephanie T. Solansky, Barjinder Singh & Shengsheng Huang

Negotiation and Conflict Management Research 7(2): 83-98 (May 2014)

We rely on the existing conflict literature and self-verification theory to examine perceived task and relationship conflict. We set out to contribute to the discussion of whether relationship conflict is dysfunctional and task conflict is functional in terms of the individual evaluations of group efficacy and group mind. Our sample is a field setting of 127 individuals within a Fortune 500 company. Individual perceptions of group efficacy and group mind scores were significantly higher when neither type of conflict was perceived to occur often as compared with when both types of conflict were perceived to occur often. After decoupling types of conflict, we found when only task conflict occurred often, the perceived efficacy and mind scores were significantly higher than when both types of conflict occurred often. This is a contradictory finding based on the existing literature that suggests task conflict negatively impacts emergent states.

Understanding Conflict Management Systems and Strategies in the Workplace: A Pilot Study

Neil H. Katz & Linda T. Flynn

Conflict Resolution Quarterly 30(4): 393-410 (Summer 2013)

In today's business environment, workplace conflict is a significant issue. Research in the conflict management discipline says that conflict in the workplace is on the rise and will continue to go up; however, many leaders and managers are not fully aware of structures and processes available to manage it. This article presents the results of a pilot study conducted in Broward County, Florida, of workplace leaders' and managers' awareness, perception, and use of conflict management systems and strategies. The findings reflect the lack of a clear definition of the issue, the absence of integrated conflict management systems within most organizations, and dissatisfaction with antiquated grievance systems. There is substantial opportunity for additional research.

Ideology and Prejudice: The Role of Value Conflicts

John R. Chambers, Barry R. Schlenker & Brian Collisson
Psychological Science 24(2): 140–149 (2012)

In three studies, we tested whether prejudice derives from perceived similarities and dissimilarities in political ideologies (the value-conflict hypothesis). Across three diverse samples in Study 1, conservatives had less favorable impressions than liberals of groups that were identified as liberal (e.g., African Americans, homosexuals), but more favorable impressions than liberals of groups identified as conservative (e.g., Christian fundamentalists, businesspeople). In Studies 2 and 3, we independently manipulated a target's race (European American or African American) and political attitudes (liberal or conservative). Both studies found symmetrical preferences, with liberals and conservatives each liking attitudinally similar targets more than dissimilar targets. The amount of prejudice was comparable for liberals and conservatives, and the race of the target had no effect. In all three studies, the same patterns were obtained even after controlling for individual differences on prejudice-related dimensions (e.g., system justification, social-dominance orientation, modern racism). The patterns strongly support the value-conflict hypothesis and indicate that prejudice exists on both sides of the political spectrum.

Conflict Cultures in Organizations: How Leaders Shape Conflict Cultures and Their Organizational-Level Consequences

Michele Gelfand, Lisa M. Leslie, Kirsten Keller & Carsten de Dreu
Journal of Applied Psychology 97(6): 1131-1147 (2012)

Anecdotal evidence abounds that organizations have distinct conflict cultures, or socially shared norms for how conflict should be managed. However, research to date has largely focused on conflict management styles at the individual and small group level, and has yet to examine whether organizations create socially shared and normative ways to manage conflict. In a sample of leaders and members from 92 branches of a large bank, factor analysis and aggregation analyses show that 3 conflict cultures—collaborative, dominating, and avoidant—operate at the unit level of analysis. Building on Lewin, Lippitt, and White's (1939) classic work, we find that leaders' own conflict management behaviors are associated with distinct unit conflict cultures. The results also demonstrate that conflict cultures have implications for macro branch-level outcomes, including branch viability (i.e., cohesion, potency, and burnout) and branch performance (i.e., creativity and customer service). A conflict culture perspective moves beyond the individual level and provides new insight into the dynamics of conflict management in organizational contexts. (PsycINFO Database Record (c) 2012 APA, all rights reserved)

Aging and Wisdom: Culture Matters

Igor Grossmann, Mayumi Karasawa, Satoko Izumi, Jinkyung Na, Michael E. W. Varnum, Shinobu Kitayama & Richard E. Nisbett
Psychological Science 23(10): 1059–1066 (2012)

People from different cultures vary in the ways they approach social conflicts, with Japanese being more motivated to maintain interpersonal harmony and avoid conflicts than Americans are. Such cultural differences have developmental consequences for reasoning about social conflict. In the study reported here, we interviewed random samples of Americans from the Midwest United States and Japanese from the larger Tokyo area about their reactions to stories of intergroup and interpersonal conflicts. Responses showed that wisdom (e.g.,

recognition of multiple perspectives, the limits of personal knowledge, and the importance of compromise) increased with increasing age among Americans, but older age was not associated with wiser responses among Japanese. Younger and middle-aged Japanese showed greater use of wise-reasoning strategies than younger and middle-aged Americans did. This cultural difference was weaker for older participants' reactions to interpersonal conflicts and was actually reversed for intergroup conflicts. This research has important implications for the study of aging, cultural psychology, and wisdom.

A Helping Hand? The Moderating Role of Leaders' Conflict Management Behavior on the Conflict–Stress Relationship of Employees

Moritz Römer, Sonja Rispen, Ellen Giebels & Martin C. Euwema

Negotiation Journal 28(3): 253–277 (July 2012)

Interpersonal conflict between colleagues within organizations negatively affects employee well-being (e.g., stress). It is unclear how leaders' third-party conflict management behaviors influence the relationship between employee conflict and well-being. In this study, we examine the effects of leaders' perceived conflict management behaviors on the relationship between relationship, task, and process conflicts and the conflict-related stress (as a measure of well-being) that employees experience. We tested our expectations using a survey of 145 employees of an insurance company in the Netherlands. The results confirmed our expectations that the perception that leaders engaged in third-party forcing behavior and avoiding behavior amplified the effects of conflict on conflict-related stress. Furthermore, we found that leaders' third-party problem-solving behavior had a buffering effect on the association between relationship conflict and conflict-related stress. Theoretical and practical implications are discussed.

COURTS & LITIGANT PREFERENCES

Judicial Procedural Involvement (JPI): A Metric for Judges' Role in Civil Litigation, Settlement, and Access to Justice

Ayelet Sela & Limor Gabay-Egozid

Journal of Law and Society 47(3): 468-498 (2020)

We examine judges' role in civil litigation by studying empirically the relationship between judicial procedural involvement (JPI) and lawsuits' mode of disposition (MoD). Furthermore, we propose JPI as a metric for the allocation of judicial attention to litigants. Applying the framework to Israeli trial court data, we find that 60 per cent of cases included JPI (through hearings and rulings on motions) whereas 40 per cent involved only the court's institutional function. By juxtaposing JPI and MoD data, we shed light on the scope of judicial involvement in settlements, the ratio between judges' normative public-life function and their problem-solving function, and other pertinent questions. Since nowadays lawsuits are rarely adjudicated, trial rates are low, and litigants in person (pro se litigants) are common, we argue that access to justice should also be construed in terms of access to judicial attention throughout the proceeding, which is readily measurable through JPI.

Costly Pretrial Agreements

Luca Anderlini, Leonardo Felli, Giovanni Immordino
Journal of Legal Studies 48: 159-184 (2019)

Settling a legal dispute involves some costs that the parties have to incur ex ante for the pretrial negotiation and possible agreement to become feasible. Even in a full-information world, if the distribution of these costs is sufficiently mismatched with the distribution of the parties' bargaining powers, a pretrial agreement may never be reached even though litigation is overall wasteful. Our results shed light on two key issues. First, a plaintiff may initiate a lawsuit even though the parties fully anticipate that it will be settled out of court. Second, the likelihood that a given lawsuit goes to trial is unaffected by how trial costs are distributed among the litigants. The choice of fee-shifting rule can affect only whether the plaintiff files a lawsuit in the first place. It does not affect whether it is settled before trial or litigated.

Faster and As Satisfying: An Evaluation of Alaska's Early Resolution Triage Program,

Stacey Marz

Family Court Review 57(4): 478-490 (October 2019)

Many courts are grappling with how to manage divorce and custody cases involving self-represented litigants efficiently and effectively. Some are exploring how to triage each case to determine the appropriate resolution approach. Some are implementing processes in which the litigants avoid contentious litigation and resolve the issues as quickly as possible. The Alaska Court System created the Early Resolution Program (ERP) to improve outcomes for families. The program identifies and triages newly filed contested divorce and custody cases involving two self-represented litigants, applying a non-adversarial process shortly after the case is filed. The author evaluated the Anchorage ERP and compared three years of ERP cases that settled to a control group composed of similarly situated cases that proceeded on the regular trial track before ERP began. This article provides a look at the possible pathways a hypothetical family's case could take--ERP or the typical trial track--to understand the types of issues that need to be resolved and how the processes differ. It explains the prevalence of self-representation in divorce and custody cases in Anchorage, which is similar to much of what is seen in courts across the country. Providing the *479 foundation for why the court system created ERP, there is discussion about the appropriateness of a problem-solving approach, the importance of caseflow management and early intervention by the court, and the need for triage. There is a section outlining the Early Resolution Program, including the triage screening process. The evaluation is summarized, including the methodology and outcomes. Finally, the findings and conclusions are presented.

If We Build It, They Might Come: Bridging the Implementation Gap Between ADR Services and Separating and Divorcing Families

Andrew Schepard, Marsha Kline Pruett & Rebecca Love Kourlis

Harvard Negotiation Law Review 24: 25-81 (Fall 2018)

Litigation arising from separation and divorce creates significant challenges for courts, families, and communities. Not only is it a major contributor to already-overburdened state court dockets, but it also strains the emotional and economic resources of the families involved. Resolving disputes through litigation requires that courts regulate the daily lives of parents and children--matters best decided within the family. Litigation inflames family conflict, increasing the risk of negative emotional and educational outcomes for children. Litigation drains parents' emotional and economic resources, rendering them less effective as parents and less productive

as employees and citizens. Litigation-based models of dispute resolution assume that parents will be represented by lawyers, yet most cannot afford to pay lawyers' fees.

Process and Outcomes of a Court-Administered Civil Mediation Program

Sarah Vidal, Suzanne Kaasa & Michele Harmon

Conflict Resolution Quarterly 36(4): 279– 292 (Summer 2019)

This paper extends the current literature on court-connected civil mediation programs and provides implications for future research and court administration policy and practice. Using administrative court data, we describe the mediation case processing, explore the factors associated with case participation in mediation, and examine how mediation processes and case characteristics relate to different case outcomes. Our findings indicate that 77.5% of cases assigned to a mediation track resulted in settlement, 17% reached resolution through a judicial ruling, and only 5.5% had trial-related outcomes. More than two thirds of cases that went through mediation settled after mediation and prior to trial.

Judges as Gatekeepers and the Dismaying Shadow of the Law: Courtroom Observations of Judicial Settlement Practices

Ayelet Sela, Nourit Zimmerman & Michal Alberstein

Harvard Negotiation Law Review 24: 83–124 (Fall 2018)

In the civil justice system, judges engage in case management and settlement promotion more than they do in trials and judgment. Despite the importance of a judge's role in settlement, its empirical depiction and jurisprudential theorization are lacking. This gap is likely the result of a key characteristic of this judicial practice: it takes place “off the record.” Using original data from a series of courtroom observations in pretrial settlement hearings in Israeli courts, the authors present new evidence and analyses of this important feature of civil litigation – which is also prevalent in many common law jurisdictions. Based on a thematic analysis of the observations, the authors discuss 11 structural features, techniques, and attitudes that characterize judges’ courtroom settlement practices. The authors provide real-life examples of each theme and discuss their findings in the context of the vanishing trial phenomenon. They argue that in today’s overburdened courts, where trials are the exception, judges often find themselves in a jurisprudentially peculiar position of trial gatekeepers. In this capacity, judges leverage their institutional authority and a host of techniques to persuade litigants to settle rather than to exercise their right to receive a reasoned judicial determination of fact and law. Thus, a striking dissonance emerges in trial courts: judges, the flagbearers of the justice system, present adjudication as an inferior option compared to settlement. In this process, judges’ settlement-promoting actions can cast a dismaying “shadow of the law,” that of an undesirable, lengthy, slow, costly, uncertain, unsatisfying, and – at times – even unfair path to justice. In its stead, the day-to-day pretrial reality of civil courts in Israel favors a jurisprudence focused on the goals of redress, compromise, finality, and cost-effectiveness. The authors elaborate on this understudied aspect of civil litigation, discuss ethical challenges it raises, and point to possible policy responses. Based on the themes and practices accumulated in this study, a training for judges to promote settlement in the courtroom was developed by the research team and a simulation center. [DRM Spring 2020]

The Settlement Norm in Audit Legal Disputes: Insights from Prominent Attorneys

Eldar Maksymov, Jeffrey S. Pickerd, D. Jordan Lowe, Mark E. Peecher & Andrew Reffett

Available at SSRN: <https://ssrn.com/abstract=2941804> or <http://dx.doi.org/10.2139/ssrn.2941804>
(July 30, 2019)

Prior research indicates that most audit legal disputes settle. There is, however, little evidence of the factors that drive the settlement norm and its exceptions in audit legal disputes. To better understand these factors, we rely on theory related to how professionals manage risks and, as a result, how professions defend jurisdictional claims (e.g., Abbott 1988; Power 2004). We use this theoretical lens to help motivate four research questions that we probe by interviewing 27 prominent attorneys experienced in audit litigation. Consistent with our lens, our interview data indicate that attorneys manage their risks, including the risk of reputational loss, by settling based on their expectations of trial verdicts. Unlike trials, settlements simultaneously enable attorneys on both sides to limit costs and avoid catastrophic jury verdicts and, by doing so, claim “wins” for their clients. Attorneys also stress that they settle many audit disputes without any legal filings. Thus, a large subset of disputes is invisible to the public and researchers. Attorneys characterize trials as exceptions to the settlement norm that emerge due to abnormal conditions sometimes present in disputes. However, trial verdicts in these abnormal conditions help attorneys justify the use of settlements to clients, as attorneys stress that by settling they can avoid the dreaded possibility of extreme unfavorable verdicts. We conclude that as individual attorneys manage their risks, especially the risk of reputational loss, their profession maintains its public image and thereby defends its jurisdictional claims. Among the many questions we pose for future research is whether the settlement norm reduces society’s ability to monitor the audit profession and, more generally, whether this norm’s benefits outweigh its drawbacks.

Bargaining in the Shadow of the Folk Law: Expanding the Concept of the Shadow of the Law in Family Dispute Resolution

Jonathan Crowe, Rachael Field, Lisa Toohey, Helen Partridge & Lynn McAllister

Sydney Law Review 40: 319-338 (2018)

The idea that parties bargain in the shadow of the law has been highly influential in research on dispute resolution and family law. Critics have questioned the utility and coherence of the concept, but it continues to be widely accepted. This article draws on an empirical study of access to legal information in a post-separation context to argue for a broader and more realistic understanding of how the shadow of the law influences parties’ expectations and strategies in family law matters. Family dispute resolution, we suggest, does not take place in the shadow of the positive law (the law contained in statutes, case law and other formal legal sources), so much as the shadow of the folk law (the law as depicted in informal sources such as online materials and popular media). It follows that there is not just one shadow of the law; rather, there are multiple shadows. These findings hold important implications for government agencies, family dispute resolution providers and others involved in providing information and advice on post-separation issues.

Inside the Mind of the Client: An Analysis Of Litigants' Decision Criteria For Choosing Procedures

Donna Shestowsky

Conflict Resolution Quarterly 36(1): 69-87 (Fall 2018)

This article presents findings from the first longitudinal study to ask civil litigants prospectively what criteria they plan to consider when selecting legal procedures and then retroactively assess the criteria used to make those decisions. The most commonly referenced ex ante criteria are lawyer's advice, cost, and time. The retrospective reasons also include these factors, but the list is narrower and more practical. Litigants who initially listed a desire to reduce costs or follow their lawyers' advice were later significantly more likely to report using procedures for these reasons, suggesting the stability of these criteria. However, the same stability did not manifest for other criteria. Implications for improving protocols for counseling litigants about procedure are discussed.

Does Alternative Dispute Resolution Facilitate Prejudice and Bias? We Still Don't Know

Gilat Juli Bachar & Deborah R. Hensler

SMU Law Review 70(4): 817-836 (2017)

By the time Professor Richard Delgado and his colleagues wrote their seminal article on the risk of alternative dispute resolution (ADR) facilitating prejudice, ADR programs were well-established in the United States, supported by legislative and court mandates, private contracts, and U.S. Supreme Court decisions. Fairness and Formality: Minimizing the Risk of Prejudice in Alternative Dispute Resolution and Delgado's subsequent review article, ADR and the Dispossessed: Recent Books About the Deformalization Movement, were cited hundreds of times by scholars and practitioners but did little to stop the movement to substitute mediation, arbitration, and other dispute resolution procedures for public adjudication. Conflict resolution theorists and practitioners celebrated mediation for its relationship-preserving and restorative potential, judges celebrated ADR in its various forms for its potential to reduce court workloads, and institutional defendants publicly welcomed the possibility of reducing legal expenses and delay by relying on mediation and arbitration in lieu of litigation. Informal dispute resolution was touted by all as an antidote to the presumed burdens court procedures imposed on lay litigants. Privately, many corporate defendants hoped that ADR would diminish claiming rates or diminish the settlement value of claims (or both).

Delgado et al. hypothesized that because ADR procedures frequently incorporate features that social science research has identified as facilitating prejudice, the procedures would produce biased outcomes. Although framed in normative terms, their hypothesis is subject to empirical testing. In the three decades following the publication of Fairness and Formality, a small cadre of socio-legal scholars took up this challenge. Using a qualitative content analysis approach, we identified thirty-eight efforts to test empirically the hypothesis that mediation and arbitration create systematic differences in dispute resolution outcomes by gender, race, ethnicity or socio-economic stratum. Using a variety of methods, including laboratory and field experiments, surveys, and analyses of reported outcomes, empiricists have produced contrary and ultimately inconclusive results. Small samples and lack of methodological rigor reduce the reliability of the published findings. In sum, the answer to the question whether informal dispute resolution facilitates prejudice is "we don't know." In an era of increasing economic inequality and ever louder expressions of racial, ethnic, and gender prejudice, we have a responsibility to learn more about how public policies that continue to favor alternative dispute resolution are affecting less

powerful groups in U.S. society. At the same time, rather than turning our backs on public adjudication, we should invest in ensuring that our courts truly provide “equal justice for all.”

When Ignorance is Not Bliss: An Empirical Study of Litigants’ Awareness of Court-Sponsored Alternative Dispute Resolution Programs

Donna Shestowsky

Harvard Negotiation Law Review 22: 189-239 (Spring 2017)

State courts have been overburdened with litigants seeking civil justice in a system still recovering from the economic downturn of 2008. In many cases, alternative dispute resolution procedures can provide litigants with relief from the expense and waiting time associated with trial. However, such procedures provide little opportunity for justice to litigants who are unaware of their existence. The present study examines litigants’ ability to identify their court’s mediation and arbitration programs. Following the disposition of their cases, litigants from three state courts were asked whether their court offered mediation or arbitration. Although all litigants had cases that were eligible for both procedures through their court, less than one-third of litigants correctly reported that their court offered either procedure. Represented litigants were not significantly more likely to know about their court’s programs than their unrepresented counterparts. Litigants had more favorable views of their court when they knew it offered mediation (as opposed to being unsure whether the court offered it), but a similar result did not emerge for arbitration. The implications of these novel findings for litigants, lawyers, and courts are discussed. [DRM Summer 2017]

Effectiveness of Existing Adjudication Review Mechanisms: Views of Industry Experts

Samer Skaik

Construction Law Journal 33(2): 102-119 (2017)

Some jurisdictions allow for an express limited right of aggrieved parties to apply for adjudication review as a way to remedy injustice caused by the speedy adjudication process. The aim of this paper is to examine the effectiveness of the existing review mechanisms and identify whether the notion of review mechanisms is a good idea. The paper adopts a combination of doctrinal legal research (black-letter law) and socio-legal research (empirical research) The empirical research involves interviews with 23 industry experts practicing in different jurisdictions in the area of statutory adjudication. The paper analyses the views of experts regarding the operation of review mechanisms in their jurisdictions and investigates the factors influencing their effectiveness. The paper concludes that if an effective review mechanism is devised to counter the barriers of cost and time, the arguments in support of the need of review mechanism would outweigh opposing arguments.

What Difference Does ADR Make? Comparison of ADR and Trial Outcomes in Small Claims Court

Lorig Charkoudian, Deborah Thompson Eisenberg & Jamie L. Walter

Conflict Resolution Quarterly 35(1): 7-45 (Fall 2017)

This study compares the experience of small claims litigants who used alternative dispute resolution (ADR) to a control group that proceeded to trial without ADR. ADR processes included mediation and settlement conferences. In the short-term, ADR participants were more likely than the trial group to indicate that: 1) they could express themselves and their thoughts and concerns; 2) all of the underlying issues came out; 3) the issues were resolved; 4) the issues

were completely resolved; and 5) they acknowledged responsibility for the situation. This held true even for parties who did not settle in ADR. In the long term, ADR participants were more likely than the trial group to report that the outcome was working and that they were satisfied with the outcome and the judicial system 3-6 months later. Finally, those who settled in ADR were less likely to return to court for an enforcement action twelve months later as compared to all other groups (including cases that received a judge verdict, those that negotiated a settlement without ADR, and those who did not settle in ADR). The research was funded by the State Justice Institute and was part of a larger study of the costs and benefits of ADR conducted by the Maryland Judiciary. [DRM Winter 2018]

Unintended Consequences: The Regressive Effects of Increased Access to Courts

Anthony Niblett & Albert H. Yoon

Journal of Empirical Legal Studies 14(1): 5-30 (March 2017)

Small claims courts enable parties to resolve their disputes relatively quickly and cheaply. The court's limiting feature, by design, is that alleged damages must be small, in accordance with the jurisdictional limit at that time. Accordingly, one might expect that a large increase in the upper limit of claim size would increase the court's accessibility to a larger and potentially more diverse pool of litigants. We examine this proposition by studying the effect of an increase in the jurisdictional limit of the Ontario Small Claims Court. Prior to January 2010, claims up to \$10,000 could be litigated in the small claims court. After January 2010, this jurisdictional limit increased to include all claims up to \$25,000. We study patterns in nearly 625,000 disputes over the period 2006–2013. In this article, we investigate plaintiff behavior. Interestingly, the total number of claims filed by plaintiffs does not increase significantly with the increased jurisdictional limit. We do find, however, changes to the composition of plaintiffs. Following the jurisdictional change, we find that plaintiffs using the small claims court are, on average, from richer neighborhoods. We also find that the proportion of plaintiffs from poorer neighborhoods drops. The drop-off is most pronounced in plaintiffs from the poorest 10 percent of neighborhoods. We explore potential explanations for this regressive effect, including crowding out, congestion, increased legal representation, and behavioral influences. Our findings suggest that legislative attempts to make the courts more accessible may have unintended regressive consequences.

Managerial Judging and Judicial Plea Negotiations: Further Evidence

Nancy J. King & Ronald F. Wright

Available at SSRN: <https://ssrn.com/abstract=2972294> or <http://dx.doi.org/10.2139/ssrn.2972294> (May 2017)

This is a companion report to our article, “The Invisible Revolution in Plea Bargaining: Managerial Judging and Judicial Participation in Negotiations,” 95 Texas Law Review 325 (2016), available at <http://ssrn.com/abstract=2796296>. Based on field interviews with judges and attorneys in ten different states, we documented new procedures in state courts that involve judges routinely in the settlement of criminal cases. We learned of grant-funded problem-solving sessions, multi-case conferences where other lawyers chime in, settlement dockets with retired judges, full-blown felony mediation with defendant and victims, and more. In this companion report, we make publicly available some additional quotations from our field interviews, adding depth to our description and evaluation of judicial negotiation practices. The additional evidence from our interviews includes further examples and exceptions that we did not publish in the

original article. This report ends with an appendix describing our methodology in assembling this interview data.

The Invisible Revolution in Plea Bargaining: Managerial Judging and Judicial Participation in Negotiations

Nancy J. King & Ronald F. Wright

Texas Law Review 95: 325-397 (2016)

This article, the most comprehensive study of judicial participation in plea negotiations since the 1970s, reveals a stunning array of new procedures that involve judges routinely in the settlement of criminal cases. Interviewing nearly 100 judges and attorneys in ten states, the authors found that what once were informal, disfavored interactions have quietly, without notice, transformed into highly structured, best practices for docket management. The authors learned of grant-funded, problem-solving sessions complete with risk assessments and real-time information on treatment options; multi-case conferences where other lawyers chime in; settlement courts located at the jail; settlement dockets with retired judges; full-blown felony mediation with defendant and victims; felony court judges serving as lower court judges; and more. The authors detail the reasons these innovations in managerial judging have developed so recently on the criminal side, why they thrive, and why some judges have not joined in. Contrary to common assumptions, the potential benefits of regulated involvement of the judge include more informed sentencing by judges, as well as less coercion and uncertainty for defendants facing early plea offers. **[Editors' Note:** A companion detailed report ("Managerial Judging and Judicial Plea Negotiations: Further Evidence (May 2017)) is available on SSRN: <https://ssrn.com/abstract=2972294> or <http://dx.doi.org/10.2139/ssrn.2972294>] [DRM Winter 2018]

How Litigants Evaluate the Characteristics of Legal Procedures: A Multi-Court Empirical Study

Donna Shestowsky

UC Davis Law Review 49(3): 793-841 (2016)

This Article presents findings from the first multi-court field study examining how civil litigants evaluate the characteristics of legal procedures shortly after their cases are filed in state court. Analyses revealed that litigants evaluated the characteristics in terms of control — i.e., whether the characteristics granted relative control to the litigants themselves or to third parties (e.g., mediators, judges). Although the litigants indicated a desire to be present for the resolution process, they preferred third-party control to litigant control. They also wanted third parties to control the process more than the outcome. Gender, age group, and case-type significantly predicted attraction to third-party control, whereas attraction to litigant control was predicted by whether litigants had a pre-existing relationship with each other, how much they valued a future relationship with the opposing party, party type, the type of opposing party, and court location. Implications for legal policy and lawyering are discussed. [DRM Summer 2016]

What We Know (and Need to Know) About Court-Annexed Dispute Resolution

Deborah Thompon Eisenberg

South Carolina Law Review 67: 245-265 (2016)

Mediation and other alternative dispute resolution (ADR) processes are now well integrated into the United States judicial system, in both civil and criminal cases. This white paper, drafted for

the American Bar Association Commission on the Future of Legal Services, summarizes empirical evidence about the costs and benefits of court-annexed ADR. The first-generation of ADR research found that mediation and other ADR processes resulted in high party satisfaction rates, high settlement rates, cost savings and efficiency, increased long-term cooperation among the parties, and higher compliance rates with the outcome. The paper then examines a ground-breaking study conducted by the Maryland Judiciary about the costs and benefits of court-annexed ADR. The Maryland ADR study provides an example of rigorous second-generation ADR research that isolates the impact of participating in an ADR process rather than a trial, regardless of whether a settlement is reached. The research also examines the impact of specific mediator interventions (such as reflecting, caucusing, and eliciting options for resolution) on party attitudes and outcomes. The paper ends with a call for additional second-generation research about what works in court-connected mediation and other ADR processes, and identifies some of the gaps in the existing body of ADR empirical research. [DRM Winter 2016]

Anchoring Effect in Real Litigation: An Empirical Study

Yun-Chien Chang, Kong-Pin Chen & Chang-Ching Lin

University of Chicago Coase-Sandor Institute for Law & Economics Research Paper No. 744 (2016). Available at SSRN: <http://ssrn.com/abstract=2726903>

Given the wide acceptance of how anchoring affects human decision-making in almost all disciplines of social science, one is surprised to find that the empirical, rather than experimental, evidence is rare and inconclusive. This article offers the first large-scale court evidence for the anchoring effect in judicial decision-making. To examine whether the anchoring effect exists in real-world litigation, the authors use Taiwan's district court cases on trespassing, matched with transaction data to estimate the hedonic values on the value of lands in dispute and with another dataset on judge experience. In the court of first instance in Taiwan, usually one career judge decides cases under an adversarial system without the presence of a jury. When a judge with less than two years of experience is (randomly) assigned a case, two senior colleagues will join to decide the case in a panel. The study provides evidence that the plaintiff's claim has a strong anchoring effect on the court's judgment when the defendant is silent. Defendant's counter-claim, however, can (partially) neutralize the anchoring effect created by the plaintiff's claim. More importantly, the anchoring effect emerges only when judges are inexperienced. When three relatively inexperienced judges sit in a panel, the anchoring effect is magnified. Therefore, the study not only provides evidence for anchoring in real-world litigations but also identifies experience as its crucial determinant. The lesson for litigants is: counter the claim that your clients disagree. A prevailing myth that admonishes defense attorneys not to concede liability under any circumstance fosters the anchoring effect in favor of the plaintiffs. For judicial policy-makers, it is important not to group inexperienced judges into a panel. Otherwise, the deliberation-induced polarization would strengthen the bias in human decision-making. Given that jurors are usually inexperienced legal decision-makers and it is unlikely to change, the civil procedure shall be structured so that defendants can effectively counter arguments made by plaintiffs. [DRM Summer 2016]

Litigation Settlements, Litigation Stakes, and Financial Distress Costs

Ganapathi S. Narayanamoorthy & Zhou Hui

Australian Journal of Management 41(3): 459-483 (August 2016)

Several theoretical studies provide predictions on the relation between settlement likelihood and litigation stakes. Although models with generalizable settings argue in favor of a negative relation, certain specialized settings predict the opposite. In contrast to the theoretical literature, there is limited empirical analysis of the relation with only one study reporting evidence of a positive association. In this study, we infer how the stock market forms expectations regarding the relation between settlement likelihood and litigation stakes by analyzing stock returns around settlement announcement dates. We find that the market was more surprised when higher stakes lawsuits were settled, suggesting that higher stakes lawsuits were not expected to settle. We thus provide empirical support in favor of general theoretical models on conflict resolution that predict a positive relation between litigation stakes and settlement likelihood. Our results also have implications for studies of financial distress costs. Although we find evidence of the existence of financial distress costs, our results contradict a conclusion drawn in prior research — that the primary benefit of litigation settlements is the unexpected relief from financial distress costs.

Impact of Alternative Dispute Resolution on Responsibility, Empowerment, Resolution, and Satisfaction with the Judiciary: Comparison of Short- and Long-Term Outcomes in District Court Civil Cases

Lorig Charkoudian (with significant contributions from Haleigh LaChance). Maryland Administrative Office of the Courts, Court Operations, Funding from the State Justice Institute, Grant Number SJI-13-N-028 (February 2016). Available at

<http://mdcourts.gov/courtoperations/pdfs/districtcourtcomparisonfullreport.pdf>

This research is part of a larger research effort to measure the impact of Alternative Dispute Resolution (ADR) on the experience of litigants in the District Court of Maryland in the short and long term. The research includes a comparison between individuals who used ADR (the “treatment” cases) and those who went through the standard court process without ADR (the “control” cases). The analysis in this document is focused on comparing the self-reported experience of ADR participants to those who did not use ADR, from surveys before and after the process, as well as 3-6 months later. The short-term analysis considers: 1) attitude toward the other participant, 2) a sense of empowerment and having a voice in the process, 3) a sense of responsibility for the situation, 4) a belief that the conflict has been resolved, and 5) satisfaction with the judicial system. This study also tests whether participants’ experiences with ADR are different for different demographic groups. The long-term analysis considers: 1) attitude toward the other participant, 2) effectiveness of the outcome, and 3) satisfaction with the judiciary. Finally, this research tests the effect of ADR on the predicted probability of returning to court for enforcement action in the 12 months following the court date.

What Works in District Court Day of Trial Mediation: Effectiveness of Various Mediation Strategies on Short- and Long-Term Outcomes

Lorig Charkoudian (with significant contributions from Haleigh LaChance and Jamie Walter). Maryland Administrative Office of the Courts, Court Operations. Funding from the State Justice Institute, Grant Number SJI-13-N-028 (January 2016). Available at:

<http://mdcourts.gov/courtoperations/pdfs/districtcourtstrategiesfullreport.pdf>

This research measures the effectiveness and efficiency of various approaches of ADR in the District Court Day of Trial ADR Program. ADR is available in 18 District Court locations throughout Maryland. ADR is provided in a facilitative, inclusive, or transformative framework, in either solo or co-ADR models. The ADR program includes both mediation and settlement conferences. Day of Trial ADR is standardized across the state in terms of ADR practitioner qualifications, quality assurance program and procedures, ADR forms, Court Rules (MD Rule 17-301 et. seq.), confidentiality (MD Rule 17-105), and data collection. However, jurisdictions differ by the local ADR program procedures, ADR process available to litigants (based on the ADR practitioner who is scheduled and what his or her qualifications are to conduct either a mediation or settlement conference), range of ADR practitioner skills and experience, availability of ADR framework (again, depending on the ADR practitioner scheduled to provide the process), the process used to refer a case to ADR (varies by judge and by courtroom), and the date and time that ADR is available (based upon docket scheduling). Furthermore, ADR practitioners use a range of skills in the process.

Sense of Access to Justice as a Framework for Civil Procedure Justice Reform: An Empirical Assessment of Judicial Settlement Conferences in Quebec (Canada)

Jean-François Roberge

Cardozo Journal of Conflict Resolution 17: 323-361 (Winter 2016)

An emerging worldwide civil procedure justice reform trend takes the user's point of view into account in order to promote access-to-justice and support for the rule of law. In the Canadian context, the Quebec civil law province has taken the lead to renew its legal culture towards a participatory justice, rooted in fair-minded processes that encourage the persons involved to play an active role. In an effort to monitor such ambitions, carried by the civil procedure code reforms of 2003 and 2014, this paper offers an empirical evaluation through the lens of litigant's "Sense of Access to Justice" ("SAJ"). The study empirically tested this innovative framework in settlement conferences, conducted by Quebec trial court judges practicing under a facilitative integrative problem-solving approach. The results show that settlement conferences are evaluated by litigants and lawyers as fair-minded processes, providing them with a sense of access to justice (over 80% satisfaction level on quality, value, and settlement rates). The SAJ Index methodology provides a benchmark to measure progress regarding access-to-justice from the litigant's perspective. It aims to ascertain litigants' views, determining whether they are in support of public policies, court initiatives, or private actions taken in response to the access-to-justice challenge. Adaptations to different judicial and private dispute resolution mechanisms taking place in various jurisdictions seem promising. [DRM Summer 2016]

Litigation and the Timing of Settlement: Evidence from Commercial Disputes

Peter Grajzl & Katarina Zajc

Available at SSRN: <https://ssrn.com/abstract=2655389> or <http://dx.doi.org/10.2139/ssrn.2655389> (2015)

Although an overwhelming proportion of all legal disputes end in settlement, the determinants of the timing of settlement remain empirically underexplored. We draw on a novel dataset on the duration of commercial disputes in Slovenia to study how the timing of settlement is shaped by the stages and features of the litigation process. Using competing risk regression analysis, we find that events such as court-annexed mediation and the first court session, which enable the disputing parties to refine their respective expectations about the case outcome, in

general reduce case duration to settlement. The magnitude of the respective effects, however, varies with time. Completion of subsequent court sessions, in contrast, does not affect the time to settlement. Judicial workload affects the timing of settlement indirectly, via the effect on the timing of the first court session. We also examine the effect of other case and party characteristics.

Let's Stop Spreading Rumors About Settlement and Litigation: A Comparative Study of Settlement and Litigation in Hawaii Courts

John Barkai & Elizabeth Kent

Ohio State Journal on Dispute Resolution 29: 85-158 (2014)

This article compares two studies (using 4,000 cases and 500 lawyer surveys) of civil litigation and settlement in Hawaii's state and federal courts over the past 50 years. The authors conclude you should never again say that "90% of all cases settle" because the statement is not correct. The settlement rate for "all" civil cases was about 50% (although almost 90% for tort cases). However, trials were rare (< 2%); jury trials were very rare (<0.5%). Telephone negotiations, not face-to-face ones, were the most common form of negotiation. Multiple settlement events (telephone, email, settlement conference, etc.) took place in the majority of cases where there was settlement activity. More than 40% of cases used some form of ADR; 75% of cases settled without judicial assistance. About 50% of the cases did not even have an appearance before a judge. Almost 50% of cases showed no pretrial discovery. The article contains data that lawyers could use with the opposing counsel, their client, the opposing client, or even a mediator. The information could also be useful for a mediator when playing the "agent of reality" role. [DRM Summer 2014]

Living with ADR: Evolving Perceptions and Use of Mediation, Arbitration and Conflict Management in Fortune 1,000 Corporations

Tom Stipanowich & Ryan Lamare

Harvard Negotiation Law Review 19:1-68 (2014)

As attorneys for the world's most visible clients, corporate counsel played a key role in the transformation of American conflict resolution in the late Twentieth Century. In 1997, a survey of Fortune 1,000 corporate counsel provided the first broad-based picture of conflict resolution processes within large companies. In 2011, a second landmark survey of corporate counsel in Fortune 1,000 companies captured a variety of critical changes in the way large companies handle conflict. Comparing their responses to those of the mid-1990s, the authors found clear and significant evolutionary trends, including a further shift in corporate orientation away from litigation and toward "alternative dispute resolution (ADR)"; moderated expectations of ADR; increasing use of mediation, contrasted with a dramatic fall-off in arbitration (except, importantly, consumer and products liability cases); greater control over the selection of third-party neutrals; and growing emphasis on proactive approaches, such as early neutral evaluation, early case assessment, and integrated systems for managing employment disputes. The article summarizes and analyzes the results of the 2011 Fortune 1,000 survey, compares current data to the 1997 results, and sets both studies against the background of a half-century of evolution. The article concludes with reflections on the future of corporate dispute resolution and conflict management, as well as related research questions. [DRM Winter 2014]

Imbalances of Power in ADR: The Impact of Representation and Dispute Resolution Method on Case Outcomes

Oren Gazal-Ayal & Ronen Perry

Law & Social Inquiry 39: 791-823 (Fall 2014)

In recent decades, ADR processes have gained worldwide recognition, a growing role in legal practice, and academic attention. Despite their professed advantages, they have also faced fierce opposition. In a seminal article, Owen Fiss made a strong case against the emerging pro-ADR movement, arguing that ADR exacerbates the imbalance of power between indigent and well-off parties and affects case outcomes. While the theoretical argument has been widely developed, empirical evidence has remained scant. This article empirically examines the impact of two seemingly relevant factors in inherently imbalanced legal disputes: the representation pattern and the dispute resolution method. The study focuses on small claims settlement conferences, using the Israeli labor courts as a test case. In this system, small claims are automatically referred to settlement conferences. The findings are based on more than three hundred small claims filed by employees against their employers. The data collected for each case consist of information about the representation of each party (self, lawyer specializing in employment law, lawyer not specializing in employment law); the outcome of the case (successful settlement conference, court-facilitated settlement, judicial decision after trial); the amount claimed by the plaintiff; and the amount obtained in the end of the process. The most salient finding is that representation increases the probability of a successful settlement conference. Settlement probability is highest (88.5%) when both parties are represented and lowest (62.3%) when neither is represented. Also, representation reduces the ratio between the amount obtained by the plaintiff and the sum claimed (the “settlement ratio”); it is lowest (38.8%) when both parties are represented and highest (56%) when neither is represented. Perhaps even more importantly, the more formal the process and the less it is based on settlement, the greater the ratio between the sum obtained and the sum claimed; it is lowest when a settlement conference succeeds (45%) and highest following full-trial (84%). [DRM Summer 2015]

Impact of Alternative Dispute Resolution on Responsibility, Empowerment, Resolution, and Satisfaction with the Judiciary: Comparison of Self-Reported Outcomes in District Court Civil Cases (April 2014)

Lorig Charkoudian. Maryland Administrative Office of the Courts, Court Operations Funding from the State Justice Institute, Grant Number SJI-12-N-003. Available at:

<http://www.courts.state.md.us/macro/pdfs/reports/impactadrondistrictctcivilcases2014report.pdf>

Participants who went through ADR are more likely than those who went through the court process to indicate that: 1) They could express themselves, their thoughts, and their concerns. 2) All of the underlying issues came out. 3) The issues are resolved. 4) The issues were completely resolved rather than partially resolved. 5) They acknowledged responsibility for the situation. In addition, participants who went through ADR are more likely than those who went through the standard court process: 1) To have an increase in their rating of their level of responsibility for the situation from before the intervention to after the intervention. 2) To shift toward disagreement with the statement “the other people need to learn they are wrong” from before the process to after the process. Participants who went through ADR are less likely to report that no one took responsibility or apologized than are people who went through the standard court process. All of these findings are uniformly applicable to ADR, whether or not an

agreement was reached. Finally, participants who developed a negotiated agreement in ADR were more likely to be satisfied with the judicial system than others, while participants who reached negotiated agreement on their own (without ADR) were not more likely to be satisfied with the judicial system than those without negotiated agreements. This seems to imply that the process of reaching agreement in ADR is the factor that led to higher satisfaction, rather than just the outcome of reaching a negotiated settlement.

The Psychology of Procedural Preference: How Litigants Evaluate Legal Procedures Ex Ante

Donna Shestowsky

Iowa Law Review 99: 637-710 (January 2014)

This article reports the findings of the first multi-jurisdictional field study of litigants' evaluations of legal procedures shortly after their cases are filed in court. Litigants from three state courts responded to written surveys designed to 1) assess how attracted they were to various legal procedures (e.g., negotiation, mediation, non-binding arbitration, binding arbitration, jury trials, judge trials) for their particular case, and 2) determine whether demographic, case-type, relationship, and attitudinal factors predicted their attraction to each procedure. Analyses revealed that litigants preferred mediation, the judge trial, and attorneys negotiate with clients present to all other examined procedures. Within this group of preferred procedures, they did not have a clear (i.e., statistically significant) preference. This pattern has significant implications for courts choosing between mediation and non-binding arbitration for their ADR programs—litigants clearly preferred mediation. Litigants also preferred the judge trial to the jury trial, and liked the idea of negotiations that included them along with their attorneys to ones that involved the attorneys but not the parties. Regression analyses used to predict the relation between the attractiveness of each procedure and demographic, case-type, relationship, and attitudinal factors revealed many interesting findings, including the fact that women liked the jury trial and binding arbitration less than men did. The results are discussed in the context of dispute resolution systems design in courts, client counseling protocols, and the psychology of litigants more broadly. [DRM Winter 2014]

Situated Justice: A Contextual Analysis of Fairness and Inequality in Employment Discrimination Litigation

Ellen Berrey, Steve Hoffman & Laura Beth Nielsen

46 Law & Society Rev. 46: 1-36 (March 2012)

A substantial body of research suggests that the legitimacy of the law crucially depends on the public's perception that legal processes are fair. This study reveals that plaintiffs' limited resources and tumultuous experiences in litigation lead them to see employment discrimination lawsuits as profoundly unfair. Employer-defendants, too, see discrimination litigation as unfair but tend to have resources to manage litigation challenges. Plaintiffs and defendants, however, see unfairness only in those aspects of the process that work to their disadvantage and do not share a common complaint. The study underscores the need for parties and professionals working with them to try to understand their disputes from each other's perspective. It also highlights employers' chief complaint, that employees can easily initiate litigation, and plaintiffs' misunderstandings of litigation, including unrealistic expectations of getting their jobs back and getting a court ruling on the merits of their case. The study calls for a rethinking of empirical research on fairness, using techniques other than the now-standard social psychological

experiment, to account for the real-life contexts in which people experience litigation. [DRM Summer 2013]

ETHICS/DECEPTION

Constituency Norms Facilitate Unethical Negotiation Behavior Through Moral Disengagement

Hillie Aaldering, Alfred Zerres & Wolfgang Steinel
Group Decision and Negotiation 29(5): 969-991 (July 2020)

While organizations strive for ethical conduct, the activity of negotiating offers strong temptations to employ unethical tactics and secure benefits for one's own party. In four experiments, we examined the role of constituency communication in terms of their attitudes towards (un)ethical and competitive conduct on negotiators' willingness and actual use of unethical tactics. We find that the mere presence of a constituency already increased representatives' willingness to engage in unethical behavior (Experiment 1). More specifically, a constituency communicating liberal (vs. strict) attitudes toward unethical conduct helps negotiators to justify transgressions and morally disengage from their behavior, resulting in an increased use of unethical negotiation tactics (Experiment 2–3). Moreover, constituents' endorsement of competitive strategies sufficed to increase moral disengagement and unethical behavior of representative negotiators in a similar fashion (Experiment 4ab). Our results caution organizational practice against advocating explicit unethical and even competitive tactics by constituents: it eases negotiators' moral dilemma towards unethical conduct.

When Negotiators with Honest Reputations Are Less (and More) Likely to be Deceived

Ilanit SimanTov-Nachlieli, Liron Har-Vardi & Simone Moran
Organizational Behavior and Human Decision Processes 157: 68-84 (March 2020)

Building on the ability, benevolence, and integrity model of trustworthiness, the authors examine the impact of three corresponding, COMMENDABLE negotiator reputations – proficient, friendly, and honest – on deception in negotiation. The authors primarily differentiate between honest and friendly reputations, which are both seemingly cooperative and often tangled in past literature. They found that negotiators deceived counterparts with honest reputations less than those with friendly (or proficient) reputations due to such counterparts' higher expected integrity, which led negotiators to (a) anticipate feeling more guilt (and less pride) about lying to such counterparts, and (b) anticipate increased positive reciprocity from such counterparts when being truthful to them. Yet this advantage of honest reputations disappeared and even backfired when refuted, especially when negotiating with individuals who typically do not lie in negotiations. These findings uncouple the two communal negotiator reputations – honest versus friendly – and suggest negotiators should be particularly concerned about having, and also about maintaining, honest reputations. [DRM Winter 2021]

Conflict of Interest Disclosure as a Reminder of Professional Norms: Clients First!

Sunita Sah
Organizational Behavior and Human Decision Processes 154: 62-79 (September 2019)

Conflicts of interest create an incentive for advisors to give biased advice, and disclosure is a popular remedy. Across a series of studies, with monetary stakes creating conflicts of interest, I show that disclosure of the conflict of interest can increase as well as decrease bias in

advice. The effect of disclosure depends on whether the perceived norms of the context in which the advice is provided are “clients first” or “self-interests first.” Disclosure increases the salience of these norms, which in turn, affects the level of bias in advice. As people draw on multiple sources of information to perceive norms, norms will vary by context and for expert versus non-expert advisors. For non-experts (research participants asked to play the role of advisors), disclosure tends to INCREASE bias in settings in which self-interested advice is deemed to be the norm (e.g., giving financial advice) and DECREASE bias in settings in which placing advisees first is deemed to be the norm (e.g., giving medical advice). However, for experts (professional financial and medical advisors), whose norms often emphasize placing advisees’ interests first, disclosure (typically) decreases bias in advice. When considering the benefits and pitfalls of disclosure, professional norms toward clients or self-interests appear to play an important role.

Don't Remind Me: When Explicit and Implicit Moral Reminders Enhance Dishonesty

Jun Zhao, Zhiqiang Dong, & Rongjun Yu

Journal of Experimental Social Psychology 85: Article 103895 (November 2019)

Moral reminders influence cheating behavior by increasing the saliency of moral values and standards that people adhere to. Previous studies on implicit and explicit moral reminders indicate that the presence of these moral reminders tends to reduce dishonesty in people. Results from our three experiments (N = 395) challenge these findings by demonstrating that exposure to explicit moral reminders consistently led to significant cheating in a dice-rolling experiment. Cheating behavior was particularly enhanced when participants received the explicit reminder to “be honest”. Implicit moral reminder to introspect about the moral values also promoted lying. However, an implicit reminder to read a classic story about honest had no effect. Reasons for these results can be explained by signaling theory, and implications for selecting reminder types are discussed.

The Impression Management Benefits of Humorous Self-Disclosures: How Humor Influences Perceptions Of Veracity

T. Bradford Bitterly & Maurice E. Schweitzer

Organizational Behavior and Human Decision Processes 151: 73-89 (March 2019)

Across five studies, we identify humor as a powerful impression management tool that influences perceptions of veracity. In many domains, such as negotiations and interviews, individuals face a challenge with respect to disclosing negative information and managing impressions. For example, an interviewer may ask an applicant to name their greatest weakness. In these settings, disclosures that reveal negative information (e.g., “I am not good at math.”) can harm perceptions of warmth and competence. We demonstrate that pairing a humorous statement with a disclosure (e.g., “I am not good at math. Geometry is where I draw the line.”) changes perceptions of the veracity of the disclosure; disclosures are less likely to be judged as true when they are accompanied by a humorous statement than when they are not. We introduce the Speaker's Inferred Motive (SIM) Model and consider the possibility that (a) speakers pursue different motives, such as a TRANSMISSION-OF-IDEAS motive (to convey information) or an ENTERTAINMENT motive (to amuse an audience), (b) audience members infer the speaker’s motive, and (c) these inferences influence perceptions of the veracity of proximal disclosures. As a result, by using humor, a speaker may signal a shift in motive and diminish perceptions of the veracity of both the humorous statement and proximal claims. Taken together,

when a target discloses negative information, including information that is highly relevant to the conversational partner, the use of humor can boost perceptions of warmth and competence. We discuss implications of our findings with respect to communication, interpersonal perception, and impression management.

Loss Aversion and Lying Behavior

Ellen Garbarino, Robert Slonim & Marie Claire Villeval

Journal of Economic Behavior & Organization 158: 379-393 (February 2019)

We theoretically show that loss-averse agents are more likely to lie to avoid receiving a low payoff after a random draw the lower the ex-ante probability of this bad outcome. The ex-ante expected payoff increases as the bad outcome becomes less likely, and hence the greater is the loss avoided by lying. We demonstrate robust support for this theory by reanalyzing the results from the extant literature and with a new experiment that varies the outcome probabilities and is run double-anonymous.

Ethical Free Riding: When Honest People Find Dishonest Partners

Jörg Gross, Margarita Leib, Theo Offerman & Shaul Shalvi

Psychological Science 29(12): 1956-1968 (December 2018)

Corruption is often the product of coordinated rule violations. Here, we investigated how such corrupt collaboration emerges and spreads when people can choose their partners versus when they cannot. Participants were assigned a partner and could increase their payoff by coordinated lying. After several interactions, they were either free to choose whether to stay with or switch their partner or forced to stay with or switch their partner. Results reveal that both dishonest and honest people exploit the freedom to choose a partner. Dishonest people seek a partner who will also lie—a “partner in crime.” Honest people, by contrast, engage in ethical free riding: They refrain from lying but also from leaving dishonest partners, taking advantage of their partners’ lies. We conclude that to curb collaborative corruption, relying on people’s honesty is insufficient. Encouraging honest individuals not to engage in ethical free riding is essential.

Explaining Differences in Men and Women's Use of Unethical Tactics in Negotiations

Jason R. Piercev & Leigh Thompson

Negotiation and Conflict Management Research 11(4): 278-297 (November 2018)

Emerging evidence suggests that competitiveness and empathy explain men's greater willingness to use unethical tactics in negotiations. We tested whether and how robustly they do with three distinct studies, run with three distinct populations. Simultaneous mediation analyses generally, but not completely, confirmed our expectations. In Study 1, only competitiveness mediated sex differences in unethical negotiation tactics among Chilean business students. Although empathy also explained willingness to use unethical negotiation tactics, the Chilean men and women did not differ in this regard. In Study 2, competitiveness and empathy both mediated sex differences in American business students’ intentions to lie to a client, but competitiveness explained greater variance. In Study 3, both factors explained sex differences in lying to bargaining partners for real stakes by working-age Americans. Our findings suggest that competitiveness and empathy each explain sex differences in willingness to use unethical tactics, but the former does so more consistently.

“I Won't Let You Down:” Personal Ethical Lapses Arising From Women’s Advocating For Others

Maryam Kouchaki & Laura J. Kray

Organizational Behavior and Human Decision Processes 147: 147-157 (July 2018)

The current research examines whether women’s personal ethics are compromised when representing others in strategic interactions. Across five studies ($n = 1337$), we demonstrate that women’s ethical choices are more sensitive to whether they are representing themselves versus advocating for others compared to men’s ethical choices. We find that other-advocating women are more deceptive than self-advocating women, whereas men are just as likely to engage in morally questionable behaviors when representing themselves or others. We further show that women’s unethical behavior is driven by their anticipatory guilt as they seek to not let their constituents down in an advocacy role. Relative to men, women’s ethical behavior when advocating on behalf of others is especially likely to reflect the presumed ethical preferences of their constituents rather than solely a reflection of their own ethical preferences. Given women’s relatively high personal ethics, these results establish a risk to adopting an advocacy role for women: the social considerations inherent to advocacy put pressure on women to engage in deceptive behaviors that compromise their personal ethics.

Eliciting the Truth, the Whole Truth, and Nothing But The Truth: The Effect Of Question Phrasing On Deception

Julia A. Minson, Eric M. VanEpps, Jeremy A. Yip & Maurice E. Schweitzer

Organizational Behavior and Human Decision Processes 147: 76-93 (July 2018)

In strategic information exchanges (such as negotiations and job interviews), different question formulations communicate information about the question asker, and systematically influence the veracity of responses. We demonstrate this function of questions by contrasting *Negative Assumption* questions that presuppose a problem, *Positive Assumption* questions that presuppose the absence of a problem, and *General* questions that do not reference a problem. In Study 1, Negative Assumption questions promoted greater disclosure of undesirable work-related behaviors than Positive Assumption or General questions did. In Study 2, Negative Assumption questions increased disclosure of undesirable information in face-to-face job recruitment meetings, relative to Positive Assumption questions and General questions. Study 3 demonstrated that the relationship we identify between question type and the veracity of responses is driven by inferences of assertiveness and knowledgeability about the question asker. Finally, in Study 4, asking assertive questions with regard to uncommon behaviors led the question asker to be evaluated more negatively.

Conflict of Interest Disclosure as an Expertise Cue: Differential Effects Due to Automatic Versus Deliberative Processing

Sunita Sah, Prashant Malaviya & Debora Thompson

Organizational Behavior and Human Decision Processes 147: 127-146 (July 2018)

Disclosure—informing advice recipients of the potential bias of an advisor—is a popular tool to manage conflicts of interest. However, conflict of interest disclosures usually compete with a host of other information that is important, relevant or interesting to the advisee. Across one field study and five experiments, we examine the effect of conflict of interest disclosures in a realistic and context-rich setting (online blogs) in which the disclosure is short, clear and conspicuous (as desired by many regulatory bodies) but embedded in the context of other

competing information. Our findings show that, in contrast to much of the prior research on conflict of interest disclosures, recipients who read a blog post containing a conflict of interest disclosure report increased trust in the blogger and evaluate the blogger, the blogger's recommendation, and the sponsoring organization more favorably than recipients who read a post with no disclosure. The effect is driven by disclosure acting as a heuristic cue to infer greater trust in the blogger's expertise and consequently greater persuasion. The inference of greater expertise and its effect on persuasion are mitigated when recipients deliberate on the disclosure. We discuss implications of these findings for organizations, advisors, consumers and policy makers.

Does “Could” Lead to Good? On the Road to Moral Insight

Ting Zhang, Francesca Gino & Joshua D. Margolis

Academy Of Management Journal 61(3): 857-895 (June 2018)

Dilemmas featuring competing moral imperatives are prevalent in organizations and are difficult to resolve. Whereas prior research has focused on how individuals adjudicate among these moral imperatives, we study the factors that influence when individuals find solutions that fall outside of the salient options presented. In particular, we study *moral insight*, or the discovery of solutions, other than selecting one of the competing moral imperatives over another, that honor both competing imperatives or resolve the tension among them. Although individuals intuitively consider the question “What *should* I do?” when contemplating moral dilemmas, we find that prompting people to consider “What *could* I do?” helps them generate moral insight. Together, these studies point toward the conditions that enable moral insight and important practical implications.

Allowing for Reflection Time Does Not Change Behavior in Dictator and Cheating Games

Steffen Andersen, Uri Gneezy, Agne Kajackaite & Julie Marx

Journal of Economic Behavior & Organization 145: 24-33 (January 2018)

Reaction time, usually measured in seconds, has been shown to be correlated with decisions in experimental games. In this paper, the authors study how allowing for a full day of “reflection time” alters behavior. The authors compare behavior in dictator and cheating games when participants make immediate choices with behavior when participants have an extra day to decide, and find that allowing for more time does not affect behavior. [DRM Winter 2018]

From Belief to Deceit: How Expectancies About Others' Ethics Shape Deception in Negotiations

Malia F. Mason, Elizabeth A. Wiley & Daniel R. Ames

Journal of Experimental Social Psychology 76: 239-248 (May 2018)

Expectancies play an important and understudied role in influencing a negotiator's decision to be deceptive. Studies 1a–1e investigated the sources of negotiators' expectancies, finding evidence of projection and pessimism; negotiators consistently overestimated the prevalence of people who share their views on deception and assumed a sizable share of others embrace deceptive tactics. This phenomenon generalized beyond American samples to Chinese students (Study 1d) and Turkish adults (Study 1e). Study 2 demonstrated that pessimistic expectancies about others' ethics positively predicted the degree to which negotiators were dishonest, above and beyond their own stated ethical views, and that it did so across both distributive and integrative negotiations. Study 3 provided evidence of a causal relationship

between expectancies of others' ethical views and dishonest behavior by manipulating expectancies. Study 4 provided additional evidence of this causal relationship in a live, dyadic exchange where performance was incentive compatible. Negotiators' deceptive behavior was shaped by their pessimism about others' ethical standards. We consider the implications of these findings for preventing deception in negotiations.

Stranger Danger: When and Why Consumer Dyads Behave Less Ethically Than Individuals

Hristina Nikolova, Cait Lambertson & Nicole Verrochi Coleman
Journal of Consumer Research 45(1): 90-108 (June 2018)

While joint ethical violations are fairly common in the marketplace and in workplace, sports-team, and academic settings, little research has studied such collaborative wrongdoings. This work compares the joint ethical decisions of pairs of people (i.e., dyads) to those of individual decision makers. Four experiments demonstrate that dyads in which the partners do not share a social bond with each other behave less ethically than individuals do. The authors propose that this effect occurs because joint ethical violations offer a means to socially bond with others. Consistent with this theory, they demonstrate that the dyads' subethicality relative to individuals is attenuated (1) if the dyad partners establish rapport prior to the joint decision making, and (2) in decision-making contexts in which social bonding goals are less active—namely, making a decision with an out-group versus in-group member. Taken together, this research provides novel theoretical insights into the social aspects of unethical behavior, offers suggestions to improve ethicality in joint decisions, and raises important questions for future research.

That's Not How I Remember It: Willfully Ignorant Memory for Ethical Product Attribute Information

Rebecca Walker Reczek, Julie R. Irwin, Daniel M. Zane & Kristine R. Ehrich
Journal of Consumer Research 45(1): 185-207 (June 2018)

This research documents a systematic bias in memory for ethical attribute information: consumers have better memory for an ethical attribute when a product performs well on the attribute versus when a product performs poorly on the attribute. Because consumers want to avoid emotionally difficult ethical information (e.g., child labor) but believe they should remember it in order to do the right thing, the presence of negative ethical information in a choice or evaluation produces conflict between the want and should selves. Consumers resolve this conflict by letting the want self prevail and forgetting or misremembering the negative ethical information. A series of studies establishes the willfully ignorant memory effect, shows that it holds only for ethical attributes and not for other attributes, and provides process evidence that it is driven by consumers allowing the want self to prevail in order to avoid negative feelings associated with the conflict. We also ameliorate the effect by reducing the amount of pressure exerted by the should self. Lastly, we demonstrate that consumers judge forgetting negative ethical information as more morally acceptable than remembering but ignoring it, suggesting that willfully ignorant memory is a more morally acceptable form of coping with want/should conflict.

Deception Under Time Pressure: Conscious Decision or a Problem of Awareness?

Tim Lohse, Sven A. Simon & Kai A. Konrada

Journal of Economic Behavior & Organization 146: 31-42 (February 2018)

Time is a crucial determinant of deception, since some misreporting opportunities come as a surprise and require an intuitive decision while others allow for extensive reflection time. To be able to pursue a deceptive strategy, however, a subject must be aware of the misreporting opportunity. This paper provides experimental evidence on the role of the time dimension for dishonest decision-making and for the cognition process of the chance to deceive. We conduct a laboratory experiment of self-serving deceptive behavior which combines two exogenously varied levels of reflection time with a cognition process about the deception opportunity. We find that time pressure leads to more honesty compared to sufficient contemplation time. More importantly, decomposing misreporting into its two components, i.e., the cognition process of the misreporting opportunity and the conscious decision to misreport, reveals that more reflection time increases awareness of the misreporting opportunity. However, more time has no effect on the conscious decision of whether to misreport or not.

Gender Differences in Emotion Explain Women's Lower Immoral Intentions and Harsher Moral Condemnation

Sarah J. Ward & Laura A. King

Personality and Social Psychology Bulletin 44(5): 653-669 (May 2018)

Why do men view morally questionable behaviors as more permissible than women do? Five studies investigated emotional factors as explanations for gender differences in moral decision-making. In Study 1 (N = 324), gender differences in perceptions of moral wrongness were explained by guilt and shame proneness. Studies 2a and 2b (combined N = 562) demonstrated that instructions to adopt an unemotional perspective (vs. standard instructions) led women to have higher immoral intentions, no longer lower than men's, as they were in the control group. Studies 3 and 4 (N = 834) showed that men expected immoral actions to result in higher positive and lower self-conscious moral emotions than women do. Study 4 (N = 424) showed that these emotional expectancies account for gender differences in immoral intentions. Study 5 (N = 450) showed that women—but not men—experience heightened self-conscious moral emotions and regret when recalling past transgressions done for personal gain.

Justifications and Questions in Detecting Deception

Jihyun Esther Paik & Lyn M. Van Swol

Group Decision and Negotiation 26(6): 1041-1060 (November 2017)

During a negotiation, truth-tellers and deceivers use justifications to bolster the credibility of their offers and claims, but given their different motivations, truth-tellers and deceivers may use justifications differently. Participants were assigned the role of allocator or recipient in an ultimatum negotiation. Allocators received money based on their performance on a trivia task and had to give the recipient some of the money. Recipients did not have information about allocator's task performance or amount the allocator received, and therefore, allocators could deceive. Truth-telling allocators were more likely to disclose advantageous information about their endowment of money in their justifications and give up their information asymmetry, which reduced suspicion in their offers. Truth-tellers were more direct, stating the offer with little description about the task structure. On the contrary, liars provided more plausible details to support their offer by referring to the structure of their task; however, appearing overly zealous

with the use of these type of justifications backfired and led to more detection of lies. Deceivers also used more wrap-up questions, such as, “OK, we’re done here, right?” to end the interaction; this did not help reduce partner suspicion. Recipients’ asking questions to the allocator in general did not improve their detection accuracy. Based on the results, the authors propose some advice for negotiators. First, if you have private information that you are not going to use to your advantage in a negotiation, then reveal this information to your partner. It will enhance your credibility. Second, if you are being fair and truthful, then tell your negotiating partner. Let your partner know. Finally, try to ask questions in a structured way whether you have initial suspicion or not, and try to postpone the veracity judgment until you gather sufficient information to draw a conclusion from the interaction with the partner. [DRM Winter 2018]

Complicity without Connection or Communication

Abigail Barr & Georgia Michailidou

Journal of Economic Behavior & Organization 142: 1-10 (October 2017)

We use a novel laboratory experiment involving a die rolling task embedded within a coordination game to investigate whether complicity can emerge when decision-making is simultaneous, the potential accomplices are strangers and neither communication nor signaling is possible. Then, by comparing the behavior observed in this original game to that in a variant in which die-roll reporting players are paired with passive players instead of other die-roll reporters, while everything else is held constant, we isolate the effect of having a potential accomplice on the likelihood of an individual acting immorally. We find that complicity can emerge between strangers in the absence of opportunities to communicate or signal and that having a potential accomplice increases the likelihood of an individual acting immorally.

Male Immorality: An Evolutionary Account of Sex Differences in Unethical Negotiation Behavior

Margaret Lee, Marko Pitesa, Madan M. Pillutla & Stefan Thau

Academy of Management Journal 60(5): 2014-2044 (October 2017)

Past research has found that men negotiate more unethically than women, although many studies report comparable rates of unethical negotiation behaviors. Based on evolutionary psychology, we predict conditions under which sex differences in unethical negotiation behavior are more versus less pronounced. We theorize that greater levels of unethical behavior among men occur because of greater male intrasexual competition for mates. This suggests that more male unethical negotiation behavior should primarily emerge in situations associated with intrasexual competition. Using a two-wave survey design, Study 1 found a positive relationship between mating motivation and unethical negotiation behavior for male, but not female, employees. Study 2 was a controlled experiment, replicating this effect and showing that the gender difference was most pronounced when negotiating with same-sex, attractive opponents. Study 3 used a similar experimental design and found support for another implication of evolutionary theory—that mating motivation would prompt unethical behavior in both men and women when the behavior constitutes a less severe norm violation. We discuss contributions to the literature on unethical behavior at work, negotiations, and the role of attractiveness in organizations.

Black and White Lies: Race-Based Biases in Deception Judgments

E. Paige Lloyd, Kurt Hugenberg, Allen R. McConnell, Jonathan W. Kunstman & Jason C. Deska
Psychological Science 28(8): 1125-1136 (August 2017)

In six studies (N = 605), participants made deception judgments about videos of Black and White targets who told truths and lies about interpersonal relationships. In Studies 1a, 1b, 1c, and 2, White participants judged that Black targets were telling the truth more often than they judged that White targets were telling the truth. This *truth bias* was predicted by Whites' motivation to respond without prejudice. For Black participants, however, motives to respond without prejudice did not moderate responses (Study 2). In Study 3, the authors found similar effects with a manipulation of the targets' apparent race. Even holding the content of the stimuli constant, White perceivers favored the truth response when they *believed* the target was Black as compared to White. Finally, in Study 4, the authors used eye-tracking techniques to demonstrate that Whites' truth bias for Black targets is likely the result of late-stage correction processes: Despite ultimately judging that Black targets were telling the truth more often than White targets, Whites were faster to fixate on the on-screen "lie" response box when targets were Black than when targets were White. These systematic race-based biases have important theoretical implications (e.g., for lie detection and improving intergroup communication and relations) and practical implications (e.g., for reducing racial bias in law enforcement). [DRM Winter 2018]

Do Professional Ethics Make Negotiators Unethical? An Empirical Study With Scenarios Of Divorce Settlement

Hiroharu Saito

Harvard Negotiation Law Review 22: 325-350 (Spring 2017)

This article examines effects of the American attorneys' professional ethical rules in negotiation, with a particular focus on truthfulness and welfare of children. The author conducted scenario experiments with law school students, which enabled a comparison of two groups: those who have already learned professional ethics and those who have not yet learned them. Three hypothetical cases with certain ethical dilemmas in divorce settlement negotiations were presented to the participants. An interesting feature of the study is the inclusion of ethical dilemmas concerning a third party's human rights; specifically, this study used situations to negotiate custody of a child. The major findings are: compared to pre-education respondents, respondents after ethical education defer to the parent's (the client's) interests more; and in return, they are more reluctant to disclose true information or to care about the child's welfare. The results show that the professional ethical rules diminish attorneys' ethical sense of fairness (i.e., truthfulness) and public interests (i.e., third party's human rights) while just enhancing loyalty to their clients. Attorneys are required to do their best for the clients, but this article raises awareness of the downside of excessive partisanship—particularly, its negative impacts on vulnerable third parties like children. [DRM Winter 2018]

Hierarchical Rank and Principled Dissent: How Holding Higher Rank Suppresses Objection to Unethical Practices

Jessica A. Kennedy & Cameron Anderson

Organizational Behavior and Human Decision Processes 139: 30-49 (March 2017)

When unethical practices occur in an organization, high-ranking individuals at the top of the hierarchy are expected to stop wrongdoing and redirect the organization to a more honorable path—this is, to engage in PRINCIPLED DISSENT. However, in three studies, we find that

holding high-ranking positions makes people LESS likely to engage in principled dissent. Specifically, we find that high-ranking individuals identify more strongly with their organization or group, and therefore see its unethical practices as more ethical than do low-ranking individuals. High-ranking individuals thus engage less in principled dissent because they fail to see unethical practices as being wrong in the first place. Study 1 observed the relation between high-rank and principled dissent in an archival data set involving more than 11,000 employees. Studies 2 and 3 used experimental designs to establish the causal effect of rank and to show that identification is one key mechanism underlying it.

Professionalism and Ethics in Family Law: The Other 90%

Deanne Sowter

Journal of Arbitration and Mediation 6(1): 167-218 (2016)

When family lawyers and lawyer-mediators are working towards settlement, ethical quandaries present themselves on a daily basis. What process should a client use? What information should be disclosed to the other side? What types of conversations should a lawyer have with their client? Imbedded in each decision the professional makes are ethical elements. Innovation in alternative dispute resolution (“ADR”) processes have created new environments for lawyers to navigate and to adapt to in their individual understanding of practicing well. As a result, many family lawyers are working in the shadows of litigation, or separate from it entirely as in the field of collaborative family law. ADR processes are often unregulated and fall outside of the scope of procedural rules. The goal of the research presented in this paper is to look at the following three sources that serve as guidance for family law lawyers and mediators when dealing with ethical challenges in ADR: existing academic research, mandatory codes of conduct and voluntary professional standards, and ethics in practice through empirical research. This paper seeks to contribute to the discussion about ethics and professionalism in innovative processes, and in particular what it means to behave ethically in family law ADR, by presenting empirical research gathered through round-table discussions with mediators, collaborative lawyers, and settlement-focused negotiators.

Whatever It Takes to Win: Rivalry Increases Unethical Behavior

Gavin J. Kilduff, Adam D. Galinsky, Edoardo Gallo & J. James Reade

Academy of Management Journal 59(5): 1508-1534 (October 2016)

This research investigates the link between rivalry and unethical behavior. We propose that people will be more likely to engage in unethical behavior when competing against their rivals than when competing against non-rival competitors. Across an archival study and a series of experiments, we found that rivalry was associated with increased unsporting behavior, use of deception, and willingness to employ unethical negotiation tactics. We also explore the psychological underpinnings of rivalry in order to illuminate how it differs from general competition and why it increases unethical behavior. The data reveal a serial mediation pathway whereby rivalry heightens the psychological stakes of competition (by increasing actors’ contingency of self-worth and status concerns), which leads to the adoption of a stronger performance-approach orientation, which then increases unethical behavior. These findings highlight the importance of rivalry as a widespread, powerful, yet largely unstudied phenomenon with significant organizational implications. They also help to inform when and why unethical behavior occurs within organizations, and demonstrate that the effects of competition are dependent upon relationships and prior interactions between actors.

The Unconscious Conscience: Implicit Processes and Deception in Negotiation

Joseph Gaspar & Chao Chen

Negotiation Journal 32(3): 213–229 (July 2016)

Deception is pervasive in negotiations, and proponents of bounded ethicality propose that the decision to use deception reflects the influence of (unconscious) implicit processes. In this article, we empirically explore the bounded ethicality perspective. In the first experiment, we found that an implicit association between business and morality interacted with the competitive and cooperative characteristics of a negotiation to influence both negotiators' attitudes toward deception and their intentions to use deception. But in a second and third experiment, we found that these did not interact to influence negotiators' actual deception decisions. The results of our studies provide important insights into the deception decision process and complicate our understanding of bounded ethicality.

What's in a Name? The Toll E-Signatures Take on Individual Honesty

Eileen Y. Chou

Journal of Experimental Social Psychology 61: 84-95 (November 2015)

People cherish and embrace the symbolic value that their unique handwritten signature holds. Technological advances, however, have led organizations to reject traditional handwritten signatures in favor of the efficiency and convenience of e-signatures. This research directly investigates the possibility that while many common e-signatures may objectively perform the same function as signing by hand, they do not exert the same symbolic weight in subsequent decision making. Seven studies consistently demonstrate these e-signatures' ineffectiveness for curbing individual dishonesty—one of the essential purposes of a signature. Furthermore, the effects are caused by their inadequate ability to evoke the signer's self-presence. Results also identify one form of e-signature that can preserve this crucial psychological connection. Meta-analyses across studies conducted for this research establish the reliability and robustness of the associations between common forms of e-signatures, self-presence, and dishonesty. By systematically examining whether, why, and which e-signatures abet cheating, findings illuminate an unexplored—but critical—consequence of a practice that is prevalent worldwide.

Lying for Who We Are: An Identity-Based Model of Workplace Dishonesty

Keith Leavitt & David M. Sluss

Academy Management Review 40(4): 587-610 (October 2015)

While the study of lying within organizations typically has focused on lies told for rational-instrumental purposes (such as lying for economic gain within negotiations), we argue that lying is a relatively common social-functional behavior embedded within ongoing workplace relationships. Drawing from social identity theory, we develop a theory of lying as a socially motivated behavioral response to identity threats at the personal, relational, or collective levels of identity in organizational life. Specifically, we propose that perceived identity threats undermine the unique fundamental identity motives at each level of self, and that as threat sensitivity and threat intractability increase, individuals become more likely to use lying as a threat management response in their interactions with other organizational members. Further, we propose that identity-based characteristics of organizational members with whom threatened individuals interact (i.e., the audience) determine the likelihood that lying will occur by assuaging or amplifying threats during identity enactment. Thus, by applying an identity lens to

examine normatively unethical behavior, we develop a comprehensive model of everyday lying as socially motivated and identity-based behavior with implications for ongoing workplace relationships.

Disclosures About Disclosures: Can Conflict of Interest Warnings Be Made More Effective?

Ahmed E. Taha & John V. Petrocelli

Journal of Empirical Legal Studies 12(2): 236–251 (June 2015)

People regularly rely on advisors who have conflicts of interest. The law often requires advisors to disclose these conflicts. Despite these disclosures, people generally insufficiently discount conflicted advice. This might be partly due to people interpreting the very fact that the advisor is disclosing a conflict of interest as a sign that the advisor is trustworthy, undermining the purpose and effectiveness of the disclosure. This article presents the results of an experiment indicating that requiring advisors to also disclose that they are legally required to disclose their conflict of interest makes people discount their advice more. This occurs, at least in part, because such advisors are viewed as less trustworthy than advisors who merely disclose their conflict of interest without also stating that the disclosure is legally required. [DRM Winter 2016]

Underestimating Our Influence Over Others' Unethical Behavior and Decisions

Personality and Social Psychology Bulletin 40(3): 348–362 (2014)

Vanessa K. Bohns, M. Mahdi Roghanizad & Amy Z. Xu

We examined the psychology of “instigators,” people who surround an unethical act and influence the wrongdoer (the “actor”) without directly committing the act themselves. In four studies, we found that instigators of unethical acts underestimated their influence over actors. In Studies 1 and 2, university students enlisted other students to commit a “white lie” (Study 1) or commit a small act of vandalism (Study 2) after making predictions about how easy it would be to get their fellow students to do so. In Studies 3 and 4, online samples of participants responded to hypothetical vignettes, for example, about buying children alcohol and taking office supplies home for personal use. In all four studies, instigators failed to recognize the social pressure they levied on actors through simple unethical suggestions, that is, the discomfort actors would experience by making a decision that was inconsistent with the instigator’s suggestion.

“I Can't Lie to Your Face”: Minimal Face-to-Face Interaction Promotes Honesty

Alex B. Van Zant & Laura J. Kray

Journal of Experimental Social Psychology 55: 234–238 (2014)

Scholars have noted that face-to-face (FTF) interaction promotes honesty because it provides opportunities for conversation in which parties exchange information and build rapport. However, it is unclear whether FTF interaction promotes honesty even in the absence of opportunities for back-and-forth conversation. We hypothesized a minimal interaction effect whereby FTF interaction promotes honesty by increasing potential deceivers' consideration of their own moral-interest. To test this account of how FTF interaction may promote honesty, we used a modified version of the deception game (Gneezy, 2005). We found that people were more honest when communicating FTF as opposed to through an intermediary. While FTF interaction tended to promote honesty irrespective of whether it occurred prior to or during the game, the effect was more pronounced when it occurred during the game. The effect of in-game communication medium was mediated by the activation of potential deceivers' moral-interest.

We also ruled out alternate accounts involving interpersonal liking, expected counterpart trust, and retaliation fear as honesty-promoting mechanisms. Furthermore, because these effects were not moderated by whether participants had been visually identified during a pre-game interaction, we suggest that our effects are distinct from theoretical accounts involving anonymity.

Ethno-Cultural Considerations in Negotiation: Pretense, Deception and Lies in the Greek Workplace

Abraham Stefanidis & Moshe Banai

Business Ethics: A European Review 23(2): 197-217 (2014)

A retrospect into ethos, this study examines the impact of individualism, collectivism, ethical idealism and interpersonal trust on negotiators' attitudes toward questionable negotiation tactics in Greece. A thousand survey questionnaires were administered to Greek employees, of which 327 usable responses were collected. Our findings empirically corroborated a classification of three groups of negotiation tactics, namely, pretense, deception and lies. Individualism–collectivism and ethical idealism were found to be related, and interpersonal trust was found to be unrelated, to attitudes toward questionable negotiation tactics. Emphasizing the non-US and non-Western European nature of the empirical data collected, the originality of this research further stems from the development of a comprehensive research framework about questionable negotiation tactics in Greece.

Some Evidence For Unconscious Lie Detection

Leanne ten Brinke, Dayna Stimson & Dana R. Carney

Psychological Science 25(5): 1098-1105 (May 2014)

To maximize survival and reproductive success, primates evolved the tendency to tell lies and the ability to accurately detect them. Despite the obvious advantage of detecting lies accurately, conscious judgments of veracity are only slightly more accurate than chance. However, findings in forensic psychology, neuroscience, and primatology suggest that lies can be accurately detected when less-conscious mental processes (as opposed to more-conscious mental processes) are used. We predicted that observing someone tell a lie would automatically activate cognitive concepts associated with deception, and observing someone tell the truth would activate concepts associated with truth. In two experiments, we demonstrated that indirect measures of deception detection are significantly more accurate than direct measures. These findings provide a new lens through which to reconsider old questions and approach new investigations of human lie detection.

Evil Genius? How Dishonesty Can Lead to Greater Creativity

Francesca Gino & Scott S. Wiltermuth

Psychological Science 25(4): 973-981 (April 2014)

We propose that dishonest and creative behavior have something in common: They both involve breaking rules. Because of this shared feature, creativity may lead to dishonesty (as shown in prior work), and dishonesty may lead to creativity (the hypothesis we tested in this research). In five experiments, participants had the opportunity to behave dishonestly by overreporting their performance on various tasks. They then completed one or more tasks designed to measure creativity. Those who cheated were subsequently more creative than noncheaters, even when we accounted for individual differences in their creative ability

(Experiment 1). Using random assignment, we confirmed that acting dishonestly leads to greater creativity in subsequent tasks (Experiments 2 and 3). The link between dishonesty and creativity is explained by a heightened feeling of being unconstrained by rules, as indicated by both mediation (Experiment 4) and moderation (Experiment 5).

Nothing to Declare: Mandatory and Voluntary Disclosure Leads Advisors to Avoid Conflicts of Interest

Sunita Sah & George Loewenstein

Psychological Science 25(2): 575-584 (February 2014)

Professionals face conflicts of interest when they have a personal interest in giving biased advice. Mandatory disclosure—informing consumers of the conflict—is a widely adopted strategy in numerous professions, such as medicine, finance, and accounting. Prior research has shown, however, that such disclosures have little impact on consumer behavior, and can backfire by leading advisors to give even more biased advice. We present results from three experiments with real monetary stakes. These results show that, although disclosure has generally been found to be ineffective for dealing with unavoidable conflicts of interest, it can be beneficial when providers have the ability to avoid conflicts. Mandatory and voluntary disclosure can deter advisors from accepting conflicts of interest so that they have nothing to disclose except the *absence* of conflicts. We propose that people are averse to being viewed as biased, and that policies designed to activate reputational and ethical concerns will motivate advisors to avoid conflicts of interest.

The Morning Morality Effect: The Influence of Time of Day on Unethical Behavior

Maryam Kouchaki & Isaac Smith

Psychological Science 25(1): 95-102 (January 2014)

Are people more moral in the morning than in the afternoon? We propose that the normal, unremarkable experiences associated with everyday living can deplete one's capacity to resist moral temptations. In a series of four experiments, both undergraduate students and a sample of U.S. adults engaged in less unethical behavior (e.g., less lying and cheating) on tasks performed in the morning than on the same tasks performed in the afternoon. This morning morality effect was mediated by decreases in moral awareness and self-control in the afternoon. Furthermore, the effect of time of day on unethical behavior was found to be stronger for people with a lower propensity to morally disengage. These findings highlight a simple yet pervasive factor (i.e., the time of day) that has important implications for moral behavior.

Neutralizing Unethical Negotiating Tactics: An Empirical Investigation of Approach Selection and Effectiveness

Denise Fleck, Roger Volkema, Sergio Pereira, Barbara Levy & Lara Vaccari

Negotiation Journal 30(1): 23-48 (January 2014)

Negotiation is integral to business success, and information is the lifeblood of the negotiation process. When invalid information is disseminated via manipulation or deceit, one or more parties can suffer. Nonetheless, many studies have shown that the use of questionable or unethical tactics is commonplace. This article reports on a study of 12 behaviors that can neutralize a counterpart's tendencies to employ questionable or unethical tactics, improving the chances for an integrative (win-win) outcome. The results suggest that while nearly two-thirds of participants employed neutralizing behaviors, they used many of these behaviors later in the

negotiation process than anticipated and simultaneously alongside questionable or unethical tactics. While the authors found some evidence that participants viewed the 12 neutralizing behaviors differently from questionable or unethical tactics, the authors did not find the expected attenuating effects. They discuss the implications of these findings, including opportunities for future research. [DRM Summer 2014]

From Glue to Gasoline: How Competition Turns Perspective Takers Unethical

Jason R. Pierce, Gavin J. Kilduff, Adam D. Galinsky & Niro Sivanathan
24 *Psychological Science* 24(10): 1986-94 (October 2013)

Perspective taking (the ability to adopt the perspective of others) is often the glue that binds people together. However, the authors propose that in competitive contexts, perspective taking is akin to adding gasoline to a fire: It inflames already-aroused competitive impulses and leads people to protect themselves from the potentially insidious actions of their competitors. Overall, the authors suggest that perspective taking functions as a relational amplifier. In cooperative contexts, it creates the foundation for pro-social impulses, but in competitive contexts it triggers hyper-competition, leading people to prophylactically engage in unethical behavior to prevent themselves from being exploited. The experiments reported in this article establish that perspective taking interacts with the relational context -- cooperative or competitive -- to predict unethical behavior, from using insidious negotiation tactics to materially deceiving one's partner to dishonesty in reporting performance on unrelated cognitive tasks. In the context of competition, perspective taking can pervert the age-old axiom "do unto others as you would have them do unto you" into "do unto others as you think they will try to do unto you." [DRM Winter 2014]

Seeing Green: Mere Exposure to Money Triggers a Business Decision Frame and Unethical Outcomes

Maryam Kouchaki, Kristin Smith-Crowe, Arthur P. Brief & Carlos Sousa
Organizational Behavior and Human Decision Processes 121(1): 53-61 (May 2013)

Can mere exposure to money corrupt? Considering the significant role of money in business organizations and everyday life, the idea that subtle reminders of money elicit changes in morality has important implications. The findings from four studies demonstrate that the mere presence of money, an often taken-for-granted and easily overlooked feature of our daily lives, can serve as a prompt for immoral behavior operating through a business decision frame (which entails objectification of social relationships in a cost-benefit calculus where self-interest is pursued over others' interests). The results of Study 1 demonstrated that individuals "primed" to think about money through use of word cues involving money-related phrases were more likely to demonstrate unethical intentions than those in the control group exposed to non-monetary word cues. In Study 2, the authors showed that participants primed with money were more likely to adopt a business decision frame. In Studies 3 and 4, the authors found that money cues triggered a business decision frame, which led to a greater likelihood of unethical intentions and behavior. The authors suggest that money is a more insidious corrupting factor than previously appreciated, as mere, subtle exposure to money can be a corrupting influence. [DRM Winter 2014]

Gender and Attorney Negotiation Ethics

Art Hinshaw & Jess K. Alberts

Washington University Journal of Urban Law & Policy 39: 145-188 (2012)

Few studies of gender differences and legal ethics exist, and of these only a handful focus on gender and negotiation ethics. In light of the paucity of evidence on this topic, we decided to include gender as a component of a broader study of attorney negotiation ethics. This Article sets forth and discusses our findings and hypotheses regarding gender and negotiation ethics.... We surveyed more than 700 practicing lawyers and asked whether they would agree with a client request to engage in a fraudulent negotiation scheme to settle a case, a clear violation of Rule 4.1 of the Model Rules of Professional Conduct governing the truthfulness of statements to others.[W]hile there was no difference in responses of men and women when asked to engage in a fraudulent negotiation strategy, there was a difference in response to a follow-up request to employ a pure omission strategy in the negotiation, a more subtle form of the fraudulent negotiation strategy. Unexpectedly, the men performed better than women. Additionally, the men performed better than women when asked whether the client's initial request constituted a misrepresentation and whether a key fact was protected from disclosure by the Rules of Professional Conduct. Some of this difference correlated with the amount of respondent professional experience, but that does not explain the entire difference in the results. However, the survey instrument was not designed to investigate and uncover those additional reasons. Thus, we cannot definitively explain the gender differences; rather, we must hypothesize what these other factors may be, such as differences in the manner in which women and men organize information when making decisions, differences in how men and women respond in ambiguous ethical situations, and differences in how men and women advocate for others.

FACILITATION

Examining Group Facilitation In Situ: The Use of Formulations in Facilitation Practice

L. Alberto Franco & Mie Femø Nielsen

Group Decision and Negotiation 27(5): 735-756 (October 2018)

In this paper we examine how the talk of the facilitator shapes group workshop interactions by using the conversational object 'formulation'. The data consist of video recordings of a corpus of four facilitated workshops held with management and development teams. By adopting an exploratory video-based investigation using conversational analysis to examine our data, we highlight the significance of three distinct set of formulations used by facilitators in workshops. Specifically, our findings show how formulations that encourage reflection or facilitate action, together with those collaboratively produced, enable sense making and the achievement of a temporal conversational order among participants. This research contributes to the study of facilitated workshops by offering a more nuanced approach to the understanding of the craftsmanship of doing facilitation, its effects on the workshop process and, ultimately, workshop outcomes.

Asking Questions: A Sine Qua Non of Facilitation in Decision Support?

Marleen McCardle-Keurentjes & Etiënne A. J. A. Rouwette

Group Decision and Negotiation 27(5): 757-788 (October 2018)

This paper reflects our ongoing interest in discovering essential elements of facilitation in decision support for groups with members having different perspectives on a strategic problem.

We investigated questioning behaviour, a critical aspect of microlevel behaviour, of the facilitator in a classroom experiment with five-person groups ($N = 26$). The supported groups used a facilitated modelling approach, that is, group model building, which is based on system dynamics. In the control condition, one of the participants led the group discussion in the role of chairperson. As expected, we found that the facilitator asked more questions than the chairperson. Subsequently, based on proposed functions of questions by discussion leaders in group decision making, we distinguished three categories of questions; related to (a) rational and social validation, (b) reflection, and (c) information management. Analysis of question type frequencies revealed that facilitators mainly ask questions from the rational and social validation category, and that this question type declines over the course of the discussion process. Questions prompting reflection increased over time. Information management questions were mostly used in the beginning and middle part of the session. In the groups led by a chairperson, a less clear picture emerged. There was a great variety between groups with respect to type of questions and sequence in which the chairperson asked questions. The only consistent result for unsupported meetings is that information management primarily took place at the end of the sessions.

The Structure of Problem Structuring Conversations: A Boundary Games Approach

Jorge Velez-Castiblanco, Diana Londono-Correa & Olandy Naranjo-Rivera

Group Decision and Negotiation 27(5): 853--884 (October 2018)

One of the questions associated with facilitated problem structuring is how the micro level of actors' multimodal communications, contributes to the emergence of a macro level, framing the possibilities for action in a workshop. This paper shows a way to study this macro level, building the visualization of the conversations' structure starting from a boundary games theory micro analysis of the interactions. Our empirical evidence comes from following a group of academic consultants working to define a value proposition for their activity. We focus on analyzing two out of nine workshops that were felt diametrically opposite in terms of facilitation and achievements. Moving from the micro towards an upward level, three configurations building the structure are identified—shifting, branching and converging. The work carried out allows us to: (1) visualize the structure of conversations in a problem structuring context, (2) highlight the role of multimodal communications in building the conversations and (3) construct an interpretation bridging the micro and macro readings of a workshop. This knowledge is useful for facilitators guiding the dynamic of a workshop and for researchers looking forward to understanding how micro level interactions build higher levels of the social phenomenon of intervention.

MEDIATION: GENERAL

Values and Interests: Impacts of Affirming the Other and Mediation on Settlements

Fieke Harinck & Daniel Druckman

Group Decision and Negotiation 28(3): 453-474 (June 2019)

Other-affirmation (thinking positively about the other party) seems to be a promising intervention for settling conflicts in which value differences are salient. Hypotheses from research on regulatory fit theory are evaluated in this study. A 2×2 design combines pre-negotiation other-affirmation (as explicit or implicit) and mediator approach (as directive or facilitative). In support of the fit hypothesis, we showed that the implicit-directive combination

produced the best joint outcomes. Directional findings showed that the fit between explicit affirmation and facilitative mediation also produced favorable outcomes. Uncertainty reduction was posited as a plausible explanation for these findings. Implications are suggested for interventions intended to resolve conflicts over resources derived from values.

What Works in Alternative Dispute Resolution? The Impact of Third-Party Neutral Strategies in Small Claims Cases

Lorig Charkoudian, Deborah T. Eisenberg & Jamie L. Walter
Conflict Resolution Quarterly 37(2): 101-121 (Winter 2019)

This research examines “what works” in small claims court dispute resolution processes. Using a comprehensive quasi-experimental design that combines real-time behavioral observation of authentic small claims court dispute resolution sessions with pre- and post-intervention questionnaires, the study measures the immediate and long-term impact of various strategies by third-party neutrals on party attitudes and case outcomes. Eliciting participant solutions had the broadest range of positive impacts. Greater percentage of time spent in caucus was associated with negative outcomes. Reflecting had short-term positive associations, and neutrals offering solutions had long-term negative associations. [DRM Spring 2020]

Improving Diversity in Commercial Mediation

Isabel Castellanos, Susanne Schuler, James South & Frederick Way
CEDR Foundation (March 2019)

Available at <https://www.cedr.com/foundation/diversity-inclusion/>

Documenting the commercial mediation profession is lacking in diversity.

--Gender: Of Mediators who are actively working (defined as conducting more than one case a year) in the field of civil and commercial mediation, 33.6% are women. Of mediators conducting more than 10 mediations a year, 30.4% are women.

--Race: 92.7% of civil and commercial mediators are white, compared with 86% of the general UK population. There is a significant decrease in Black and Asian commercial mediators in the UK, compared with the general population.

--Age: Commercial Mediators are also significantly older than workers in other fields. 77.5% of commercial mediators are over the age of 50 and 42.4% are over the age of 60. This contrasts with the demographics of those gaining accreditation. Whilst 56% of those training are under the age of 50, only 22.5% of practising mediators are under 50.

The Benefits and Burdens of Keeping Others' Secrets

Michael L.Slepiana & Katharine H.Greenaway

Journal of Experimental Social Psychology 78: 220-232 (September 2018)

Prior research on secrecy has examined the effects of keeping one's own secrets, but people keep others' secrets too. The present work presents the first examination of the experience of keeping *others'* secrets. Three studies (one correlational, two experimental) with more than 600 participants holding more than 10,000 secrets demonstrate that being confided in brings relational benefits, but is also a burden. The closer one is to the confider, the more one's mind wanders toward the secret, predicting increased feelings of intimacy, but also burden. The more a secret has overlap with one's own social network, the more one conceals the secret on the other's behalf, predicting increased feelings of burden. Experimentally shifting the mentally accessible framing of the secret (to focus on closeness or overlap) influences attributions made about being

confided in, as does shifting the meaning people infer for why their mind wanders toward the other's secret (i.e., mind-wandering as revisiting or as problem-solving). Being confided in can be both a burden and a boost—pathways that operate simultaneously and independently from each other.

Retaining Volunteer Mediators: Comparing Predictors of Burnout

Caroline Harmon-Darrow & Yanfeng Xu

Conflict Resolution Quarterly 35(4): 367-381 (Summer 2018)

Retention of the estimated 30,000 U.S. volunteer community mediators is critical to provision of high-quality services. Although workers' retention and burnout is well researched, retention of volunteers such as community mediators is less understood. Survey data of 53 volunteer mediators were analyzed. For volunteer mediators, burnout and intent to remain for 2 years were significantly negatively associated. Using a self-determination-based basic needs satisfaction scale, more relatedness satisfaction predicted lower burnout for volunteer mediators, while competence satisfaction and autonomy satisfaction did not. This association held, even when controlling for mediators' experience in the field and self-care behaviors.

The Long-Term Effectiveness of Mediating Workplace Conflicts

Meriem Kalter, Katalien Bollen & Martin Euwema

Negotiation Journal 34(3): 243-265 (July 2018)

In this study, we explore the long-term effectiveness of the mediation of hierarchical workplace conflicts by comparing and analyzing participants' perceptions of short-term and long-term mediation effectiveness. Specifically, we surveyed supervisors and subordinates to determine the extent to which they perceive mediation to be effective one year after the conclusion of the process. In this study, we distinguish between mediations that result in a continuing employment relationship versus exit mediations, which occur when employees end their employment. We collected data from real workplace mediation cases in the Netherlands. Our results show a general positive relationship between short-term and long-term mediation outcomes. Supervisors and subordinates, however, perceive the long-term outcomes somewhat differently, with supervisors perceiving greater compliance with the agreement than did subordinates after one year. We found no significant difference in perceptions of long-term effectiveness between exit and nonexit mediations. In the article, we discuss the implications of our findings for mediation theory and practice.

Hidden in Plain View: The Impact of Mediation on the Mediator and Implications for Conflict Resolution Education

Deborah A. Malizia & Jessica Katz Jameson

Conflict Resolution Quarterly 35(3): 301-318 (Spring 2018)

Empirical evidence shows that middle and high school students trained to be peer mediators experience improved communication skills, increased empathy, enhanced self-esteem, and improved academic performance. Yet scholars have not examined whether these benefits extend to mediators in other contexts. This article presents empirical evidence and theoretical support for the inference that mediation training and practice have a positive impact on the emotional well-being of the mediator. Given the documented increase of mental health challenges in today's society, this largely untapped potential of mediation to improve the well-being of the mediator has significant implications for conflict resolution education.

Mediator Thinking in Civil Cases

James A. Wall & Kenneth Kressel

Conflict Resolution Quarterly 34(3): 331-367 (2017)

In this study we investigated mediators' thinking in twenty real-life civil case mediations. We found evidence that their thinking unfolds along two planes: one intuitive (system 1) and the other rational (system 2). On the former, mediators frame the mediation as a distributive process, instinctively evaluate the situation as well as the parties, and engage in habitual interventions. On the rational plane, the mediators develop goals, rationally evaluate the situation, mentally map what is going on, and choose among a variety of rational steps, such as pressing, delaying the mediation, and extracting offers, in order to accomplish their goals. [DRM Summer 2017]

First Impressions: Drafting Effective Mediation Statements

Donna Erez-Navot & Brian Farkas

Lewis & Clark Law Review 22: 157-184 (2018)

In civil disputes, mediators often encourage advocates to submit premediation statements. These narratives are meant to educate the mediator on the most pressing factual and legal disputes between the parties before the session. Yet litigators have little guidance on drafting such statements. Unlike many legal documents – pleadings, motions, and settlement agreements – there are no standard templates or specific requirements on their form or substance. Neither law schools nor law firms provide much training on drafting pre-mediation statements, which are considered a fairly niche genre of legal writing. Indeed, mediators themselves, as well as administering organizations, often provide little direction to advocates. Now that mediation has become firmly embedded into our litigation culture, it is time for litigators to embrace some concrete “best practices.” Drawing on new empirical survey data and interviews with experienced mediators, as well as case law and statutes regarding disclosure, this Article proposes guidelines for litigators seeking to draft effective premediation statements that will be most helpful to the mediator, and ultimately, to their clients.

Mandatory Pre-Suit Mediation for Medical Malpractice: Eight-Year Results and Future Innovations

Randall C. Jenkins, Gregory Firestone, Kari L. Aasheim & Brian W. Boelens

Conflict Resolution Quarterly 35(1): 73-88 (Fall 2017)

Situated in the litigious state of Florida, UF Health implemented its mandatory pre-suit mediation program in 2008 to compensate meritorious medical malpractice claims quickly, combat increasing attorney fees and costs, reduce frivolous lawsuits, and facilitate early, confidential communication to enhance the patient-provider relationship. Data analysis over the program's eight-year history demonstrates positive impacts on legal expenses and resolution time; results show a reduction in legal expenses of 87 percent as compared to traditional litigation and average receipt-to-resolution time of less than six months. The authors examine the Florida infrastructure supporting the program's success and offer recommendations for future expansions.

Illinois Foreclosure Mediation Program: Statistical Report December 2015

Jennifer Shack, Resolution System Institute (2016)

Available at: <http://www.aboutrsi.org/pfimages/FM%20Statistical%20Report%20123115.pdf>

This report provides statistics for six foreclosure mediation programs, including case outcomes from each program's launch and a comparison of each program's participation rate, outcomes and time in program for the first two years of the program.

When Clients Throw Punches and Chairs: How Mediators Respond to Violence

Susan S. Raines & Yeji Choi

Negotiation Journal, 32(4): 267–296 (October 2016)

Much is known about screening family law mediation cases for potential violence, but little is known about violence that occurs within or immediately after mediation. In this article, we present the findings of a survey of U.S. mediators who reported their experiences of violence across a variety of mediation case types. These mediators described how and when violence arose and also reported the techniques and interventions that they used to de-escalate tensions and to respond to violence. Our goal is to better equip mediators to prevent violence when possible, and to respond effectively if violence does arise in mediation. [DRM Winter 2017]

The Surprising Effectiveness of Hostile Mediators

Ting Zhang, Francesca Gino & Michael Norton

Management Science 63(6): 1972-1992 (May 2016)

Contrary to the tendency of mediators to defuse negative emotions between adversaries by treating them kindly, we demonstrate the surprising effectiveness of hostile mediators in resolving conflict. Hostile mediators generate greater willingness to reach agreements between adversaries (Experiment 1). Consequently, negotiators interacting with hostile mediators are better able to reach agreements in incentive-compatible negotiations than those interacting with nice mediators (Experiments 2). By serving as common enemies, hostile mediators cause adversaries in conflict to feel more connected and become more willing to reach agreement (Experiments 3 and 4). Finally, we manipulate the target of mediators' hostility to document the moderating role of common enemies: mediators who directed their hostility toward both negotiators (bilateral hostility) – becoming a common enemy – increased willingness to reach agreement; those who directed hostility at just one negotiator (unilateral hostility) did not serve as common enemies, eliminating the hostile mediator effect (Experiment 5). We discuss theoretical and practical implications, and suggest future directions. [DRM Winter 2017]

Dealing with Resistance in Initial Intake and Inquiry Calls to Mediation: The Power of “Willing”

Rein Sikveland & Elizabeth Stokoe

Conflict Resolution Quarterly 33(3): 235–254 (Spring 2016)

This article explores how to best deal with resistance during and beyond initial encounters with mediation clients. The study is based on a large data-set of intake calls to community and family mediation services in the United Kingdom. Using conversation analytic techniques, the authors studied instances where call takers, after having explained mediation, invited prospective clients to make a first appointment. The authors found that questions or proposals containing the word “willing” were significantly more effective than other phrasing such as “does this sound helpful to you?”, in securing a “yes” response. This difference manifested itself in the way clients respond. For example, when asked if “willing”, clients generally accept in a strong way (“oh of course”; “definitely”), as opposed to hedged and mitigated responses in response to other formats (“I’m not sure at this stage...”). Also, “willing”

was the only word that achieved a total turnaround from an initial “no” from a client, to a “yes”. The authors argue “willing” works because if the other party is the kind of person who won’t mediate, then the caller must be the kind of person who will. This study demonstrates that the outcome of initial contact with services is directly affected by the words and formulations that mediators use. The authors also found that, in terms of explaining the process and establishing willingness, initial phone calls and the first face-to-face meeting with mediators both cover similar territory. They therefore suggest that intake calls should be considered the first stage of mediation. The findings also suggest that understanding effective processes in explaining mediation and establishing willingness is crucial for developing and delivering training—for example, by incorporating the findings into training for court intake staff and for mediators. [DRM Summer 2016]

Direct Instruction and Guided Practice Matter in Conflict Resolution and Social-Emotional Learning

Karen DeVoogd, Pamela Lane-Garon & Charles A. Kralowec
Conflict Resolution Quarterly 33(3): 279–296 (Spring 2016)

Seven schools in an economically challenged area of an urban school district in central California implemented mentored peer mediation programs under the guidance of a university–K-12 partnership project, Mediator Mentors. The study examined individual student outcomes for social-cognitive dispositions, perceptions of school climate, conflict strategy choices, and standardized testing results in language arts, using assessments administered after one year of program implementation and comparing them to pretest values generated by student mediators and non-mediators. The study also examined attendance rates and student perceptions of school safety after a year of peer mediation at the schools. And the study analyzed school climate by looking at bullying incidence and suspension and expulsion rates before and after one year of program implementation. The most salient findings of this study include effects on students as well as on the school setting--specifically, increased attendance and reported sense of belonging, mitigation of bullying incidents, and gains in English language learners’ academic scores. Students who become mediators also develop superior capacity to empathize and perspective-take, as well as to select productive problem-solving strategies. Most of these findings are based on group differences between students who become and serve as mediators when compared to non-mediator students. Becoming a school mediator may be valued on many levels, by the mediators themselves and certainly by those they serve. [DRM Summer 2016]

Six Programs, Six Models: An Evaluation of the Foreclosure Mediation Programs Funded by the Office of the Illinois Attorney General

Jennifer Shack, Resolution System Institute (2015)

Available at: www.aboutrsi.org/pfimages/SixProgramsSixModels.pdf

This evaluation of six foreclosure mediation programs with very different service delivery models provides unique insight into how program design can impact program effectiveness. Each of the programs had a different model. They could be grouped, however, into one-step entry programs and multi-step entry programs. The differences were most significant between these groupings. In one-step entry programs, homeowners were simply told to appear at a scheduled pre-mediation session, and if they did so they participated. The multi-step entry programs required two or more steps, some of them more difficult than others. Program functioning was also affected by how services were provided to the homeowners and how often

cases were referred into the program at the default hearing. The study found participation rates of between 11% and 68%. The higher rates of participation were in the one-step entry programs. The program with the 68% participation rate – the only one-step entry program started early enough to evaluate outcomes - was able to have a more significant impact on foreclosures in the county overall. In that program, 14% of all homeowners in the county facing foreclosure were able to keep their homes. This compares to 2% to 6% of homeowners in other counties. The study also found that homeowners benefitted from a second opportunity to participate: homeowners in one program with a high rate of judicial referral were at least as likely to retain their homes as those who entered when their case was first filed. Additionally, providing housing counseling improved homeowner understanding of their options. These findings are of use to anyone involved in designing or improving ADR programs to address complex cases involving consumer debt, such as foreclosure or student loan debt. They point to the need for programs to have an easy entry process, to provide services beyond mediation, and to give homeowners a second opportunity to participate if they miss the first one. [DRM Summer 2016]

Inside the Caucus: An Empirical Analysis of Mediation from Within

Daniel Klerman & Lisa Klerman

Journal of Empirical Legal Studies 12(4): 686–715 (December 2015)

This article provides a glimpse into the worlds of mediation and settlement negotiation. Because they are almost always private, there has been relatively little empirical analysis of the dynamics of settlement or mediation. This article analyzes a unique data set derived from a mediator's contemporaneous notes of mediations involving employment disputes, such as claims of discrimination or wrongful termination. Although the data set includes more than 400 cases, since they were all mediated by a single mediator, this article can be viewed as a case study. Among the most interesting facts uncovered by this analysis are the following. Mediation can be extremely effective in facilitating settlement. The mediator studied here achieved a settlement rate of over 94 percent. There are very few gender differences, whether one looks at the gender of the plaintiff or the gender of the lawyers. For example, settlement rates are the same for male and female plaintiffs and lawyers. On average, cases settle much closer to the defendant's first offer than the plaintiff's, irrespective of case type, size of law firm, or other factors. A mediator's proposal appears to be the most effective mediation technique. A mediator's proposal was used in almost 90 percent of cases and, when it was used, the settlement rate was over 99 percent.

Managerial Mediation Competency: A Mixed-Method Study

Jean Poitras, Kevin Hill, Virginie Hamel & Francis-Benoît Pelletier

Negotiation Journal 31(2): 105–129 (April 2015)

Managerial conflict resolution skills such as mediation have often been poorly defined and measured. We used a mixed-method design to develop a managerial mediation competency scale. In our first study, we used semistructured interviews to identify managerial mediation skills and attitudes, from which we derived a framework for measuring managerial mediation competency. In our second study, we developed scale items and used a quantitative survey to test the scale's psychometric qualities and to gain insight into the theoretical structure of managerial mediation competency. Our managerial mediation competency scale can be used in research questionnaires or organizational surveys as a training, research, and theory development tool.

Creativity in Court-Connected Mediation: Myth Or Reality?

Lin Adrian & Solfrid Mykland

Negotiation Journal 30(4): 421-439 (October 2014)

Mediation is often promoted for fostering creative solutions but is that really the case? Yes, it seems so. This study found that approximately two thirds of the cases in court-connected mediation contained creative elements. The authors analyzed mediated agreements from civil court cases in Norway and Denmark and compared the outcomes with the parties' original claims. If an agreement contained other elements than the parties' claims, it was considered to be "creative." Many agreements contained only a few other elements, but about one quarter contained more than five. The study suggests that time matters: lengthier mediations featured more creativity. So did cases that involved two private individuals rather than businesses and cases whose issues involved inheritance as well as the division of property following divorce. The authors suggest that creativity depends not only on the characteristics of the case but also on the mediators' framing of the issues. [DRM Winter 2015]

Friendly Persuasion in Civil Case Mediations

James A. Wall Jr. & Suzanne Chan-Serafin

Conflict Resolution Quarterly 31(3): 285-303 (Spring 2014)

This study investigates why mediators' assertive strategies—evaluative and directive—did not generate high disputant dissatisfaction when they produced agreements. We thoroughly investigated the transcripts from fifty cases in which the mediators had used assertive strategies and attained agreement. We found that mediators did not irk disputants because the mediators complemented their strategies with four tactical approaches. First, they established their legitimacy, and when mediating they shifted their strategies (from assertive to neutral or vice versa) round by round. They also used a ratchet approach to nudge disputants toward agreement, and they took steps to reduce the disputants' aspirations.

Mediators' Cognitive Role Schema

Adi Zarankin, James A. Wall, Jr. & Tal G. Zarankin

Negotiation and Conflict Management Research 7(2): 140-154 (May 2014)

This study identifies the cognitive role schema of 189 practicing mediators. An initial analysis of the mediators' questionnaire responses revealed 13 facets in the mediators' schema, and a second analysis condensed this to four goals: agreement, improvement of the parties' relationship, benefit the parties as well as society, and improve the mediation process. Not only do these facets indicate how the mediators think, but they also provide predictions about the mediators' behavior (e.g., they will strive primarily for agreement).

How Do Mediators Decide What to Do? Implicit Schemas of Practice and Mediator Decisionmaking

Kenneth Kressel

Ohio State Journal on Dispute Resolution 28: 709-735 (2013)

In this paper I address a vexing, but curiously understudied subject: How do mediators decide what to do under the volatile, unpredictable, and fast moving circumstances under which they work? There are two familiar responses to this question. One is that mediator decisionmaking is "intuitive," especially for highly experienced professionals. Another is couched in terms of mediator identification with some formal model of practice such as

facilitative or transformative mediation. There are good reasons to believe that neither intuition nor reliance on a formal model provide a satisfying answer to questions about mediator decisionmaking. I summarize the findings from three in-depth studies using reflective case study methods that suggest a more complete answer to the question. These studies include an investigation of divorce mediation, a study of the work of ombuds-mediators working at the National Institutes of Health, and a study of mediators brought into the psychology laboratory to mediate a simulated conflict between two college roommates. We have learned from these investigations that tacit knowledge—which we have variously described under headings like mediator “styles”, “mental model”, or “schemas of practice”—plays a powerful role in such decisionmaking, is often at striking variance with what practitioners consciously believe they are doing, and can be gotten at by methods that help practitioners access their tacit decisionmaking knowledge. The methodological and practical implications of these findings for future research on mediator decisionmaking are considered.

Changing Minds: The Work of Mediators and Empirical Studies of Persuasion

James Stark & Douglas Frenkel

Ohio State Journal on Dispute Resolution 28: 263-352 (2013)

In this article, we present and analyze the existing research on a variety of persuasive interventions, in roughly the order at least some mediators might attempt them in a hotly contested mediation like the Halverson matter. In Parts II and III, we discuss orchestrating role reversals and apologies, two interventions that utilize an indirect or behavioral approach to persuasion. In Parts IV-VI, we turn to direct persuasion and to message variables that may affect the persuasive effect of such interventions, including the choice of rhetorical questions or statements (Part IV), the relative effectiveness of one-sided versus two-sided statements and the persuasive effects of message explicitness (Part V), and the use of “negative” emotions such as fear and guilt in efforts to persuade (Part VI). In Parts VII and VIII, we turn to indirect and direct modes of persuasion that might be used in the later stages of the mediation process, once the actual bargaining begins. In Part VII, we consider group brainstorming as an indirect method of persuasion aimed at generating more ideas for resolution and/or inducing greater cooperation between the disputants. In Part VIII, we examine the use of a sequence of requests-as opposed to a single, straightforward one-to try to obtain bargaining concessions.

Exploring the Significance of Emotion for Mediation Practice

Cheryl Picard & Janet Siltanen

Conflict Resolution Quarterly 31(1): 31-55 (Fall 2013)

The authors report on their exploratory study examining the learning process embedded in mediation. Their research procedures involved directed reflexive journaling followed by group discussions to generate insights into how mediation practitioners experience learning in mediation. The significance and role of emotion emerged as central to the dynamic of this learning process. The research indicates that the experience of positive and negative emotions attached to learning needs to be allowed and attended to within the mediation dynamic. This suggests that mediation practitioners need the competence to follow and understand their own learning-attached emotions as well as those of the parties.

Increasing Referrals to Small Claims Mediation Programs: Models to Improve Access to Justice

Heather Scheiwe Kulp

Cardozo Journal of Conflict Resolution 14: 361-393 (Winter 2013)

This study is designed to assist managers of court, not-for-profit, and other small claims mediation programs to improve the rate and appropriateness of cases referred to mediation. After examining dispute system design characteristics of over 50 small claims mediation programs, the constructed models offer dispute system designers common characteristics of programs with higher rates of referrals and settlements-per-referral. More importantly, the models articulate characteristics that work in particular settings or to achieve certain goals. From this study, designers can customize a small claims mediation program based on available resources and intended goals. More effective referrals increase the likelihood that parties--especially self-represented litigants--will garner mediation's benefits. Hopefully, this study will prompt others to study how courts can design more effective mediation programs for small claims litigants, many of whom come to court seeking access to effective, problem-solving systems. [DRM Summer 2013]

Multidimensional Analysis of Conflict Mediator Style

Kenneth Kressel, Tiffany Henderson, Warren Reich & Claudia Cohen

Conflict Resolution Quarterly 30: 135-171 (2012)

This study explores mediator stylistic variations in a sample of 17 professional and 5 novice mediators. Participants mediated the same simulated conflict between two college roommates and reported on their in-session thinking using a stimulated recall procedure. Mediators described themselves as stylistically eclectic and flexible, but this was not borne out by observational data. Whatever approach mediators began with tended to dominate their performance throughout. Multidimensional scaling identified two dimensions underlying mediator performance: stylistic orientation (relational versus settlement oriented) and level of empathic attunement. Qualitative analysis identified facilitative and evaluative variants of the settlement orientation and transformative and diagnostic variants of the relational orientation. The facilitative and diagnostic mediators performed more skillfully than their evaluative and transformative counterparts but there was suggestive evidence that mediator identification with a particular formal model may be a less important determinant of outcomes than mediator energy, warmth, and optimism; a nonjudgmental stance; and a willingness to adapt to the inclinations and needs of the parties. Practically speaking, the results suggest that consumers of mediation services should regard mediator self-descriptions skeptically and that mediators should cultivate methods of reflective learning and self-observation in order to increase professional self-awareness. [DRM Summer 2013]

Just My Style: The Practical, Ethical, and Empirical Dangers of the Lack of Consensus about Definitions of Mediation Styles

Lorig Charkoudian

Negotiation and Conflict Management Research 5(4): 367-383 (October 2012)

This article reviews the importance of research and understanding of mediation styles on quality assurance, ethical practice, and accuracy of research. Three studies are reviewed. One finds that while there are patterns of stylistic practice in mediation, there is no agreement on the definitions for different styles. The second finds that mediators tend to practice in either a

directive or a reflective style within a given mediation, rather than using a mix of strategies. The final study highlights how different mediator strategies affect participant satisfaction with the process. Implications for practice and future research are discussed.

MEDIATION: GLOBAL

The Surprising Decline of International Mediation in Armed Conflicts

Magnus Lundren

Research and Politics, 2020

We identify and investigate a fundamental puzzle in contemporary mediation of armed conflicts: while the preparedness of international mediators has increased, the proportion of armed conflicts that receive mediation has not increased, but decreased. Using quantitative data on the occurrence of mediation, 1989-2013, our analysis suggests that this puzzling contradiction cannot be explained by conflicts being more fragmented, intractable, or internationalized. Instead, we argue that the puzzling decline of mediation can be explained by a mismatch between supply and demand in the international mediation ‘market’: while there are more mediators available, the rise of conflicts involving Islamist armed actors, coupled with increased reliance on terror-listing, especially since 2001, has placed a growing number of conflicts beyond the reach of international mediators. Our findings challenge the conventional belief that the post-Cold War era is characterized by high mediation rates and points to the need to develop the practice of mediation to maintain its relevance in the contemporary conflict landscape.

Victoria University of Wellington/Resolution Institute 'Commercial Mediation in New Zealand: The Mediators' Project Report (August 2019)

Grant H. Morris and Sapphire Petrie-McVean

Available on SSRN: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3474184

This report outlines the findings of a research project that was co-funded by the Resolution Institute as part of Victoria University’s 2018/19 Summer Scholarship programme. It forms part of the New Zealand Commercial Mediation Study (NZCMS). This report aims to provide insight into the practice of commercial mediation in New Zealand and builds on the previous studies: the first examining the nature of private commercial mediation in New Zealand (as this does also), the second examining the perspectives of commercial lawyers, the ‘gatekeepers’ of mediation, and the third examining the perspectives of ‘users’ of commercial mediation, (more specifically in the insurance sector). The longitudinal nature of this research allows readers to see the differences in the private mediation market from early 2015 to early 2019. Investigation into the private mediation market is necessary for its growth and development as a form of alternative dispute resolution.

Practitioners’ Perception of Court-Connected Mediation in Five Regions: An Empirical Study

Shahla F. Ali

Vanderbilt Journal of Transnational Law 51(4): 999-1026 (October 2018)

Courts throughout the world face the challenge of designing court mediation programs to provide opportunities for party-directed reconciliation on the one hand, while ensuring access to formal legal channels on the other. In some jurisdictions, mandated programs require initial attempts at mediation, while in others, voluntary programs encourage party-selected

participation. This Article explores the attitudes and perceptions of eighty-three practitioners implementing court mediation programs in five regions in order to understand the dynamics, challenges, and lessons learned from the perspectives of those directly engaged in the work of administering, representing, and mediating civil claims. Given the highly contextual nature of court mediation programs, this Article highlights achievements, challenges, and lessons learned in the implementation of mediation programs for general civil claims. The principal findings indicate that overall, from the perspective of the court mediation practitioners surveyed, practitioners report slightly higher levels of confidence in mandatory mediation programs, higher perceptions of efficiency with respect to voluntary programs, and regard voluntary and mandatory mediation programs with relatively equal perceptions of fairness. Program achievements largely depend on the functioning of the civil litigation system, the qualities and skill of the mediators, safeguards against bias, participant education, and cultural and institutional support.

Nudging Civil Justice: Examining Voluntary and Mandatory Court Mediation User Experience in Twelve Regions

Shahla F. Ali

Cardozo Journal of Conflict Resolution 19: 269-288 (Winter 2018)

Nudge theory suggests that positive reinforcement to encourage compliance is at least as effective, if not more effective, than traditional directions issued through legislation. This Article tests nudge theory in the context of court mediation reform by examining whether, and if so how, light nudges encouraging voluntary mediation have a differential effect on civil justice outcomes as compared with more robust nudges through mandated mediation processes. A statistical analysis of 2016-2017 civil justice indicators in twelve regions suggests light nudges, (voluntary court mediation programs, or (self-directed resolution), on average associated with higher overall jurisdictional scores for efficiency and non-discrimination. In comparison, robust nudges, (court-mandated mediation processes) show no significant difference in relation to the quality of civil justice, effective enforcement, accessibility and affordability, and impartiality, and effectiveness between voluntary and mandatory mediation systems in the regions examined. [DRM Summer 2018]

How Should the Courts Know Whether a Dispute is Ready and Suitable for Mediation? An Empirical Analysis of the Singapore Courts' Referral of Civil Disputes to Mediation

Dorcas Quek Anderson, Eunice Chua & Ng Tra My

Harvard Negotiation Law Review 23: 265-317 (Spring 2018)

In line with international developments in court-connected mediation, the Singapore courts have strongly supported the use of mediation and have taken steps to encourage litigants to attempt mediation. This article features the very first empirical analysis of the Singapore courts' referral of civil cases to mediation. Although focused on Singapore, the results of the study also inform the referral policies of other judiciaries that similarly engage in the practice of referring cases for mediation. The study uses a rigorous method to shed light on the crucial factors to be considered by the courts in referral practice and designing of mediation programs. The research demonstrates that the timing of referral, the stage of litigation and the level of contentiousness between the disputants collectively exert a significant influence on the likelihood of settlement at mediation. These variables are also likely to have an impact on the participants' perception of mediation success. The quantum of claim emerges as a significant factor as well. Other key variables affecting the mediation outcome relate to the mediation

process, such as the time taken to complete the mediation and whether the mediator has legal training. The study shows that the courts' referral practices have to be informed by a nuanced assessment of all these factors rather than being focused on timing and stage of referral.

Understanding China's Court Mediation Surge: Insights from a Local Court

Yedan Li, Joris Kocken & Benjamin van Rooij
Law & Social Inquiry 43(1): 58-81 (Winter 2018)

This article seeks to understand how reported mediation rates in Chinese courts are produced and what they actually signify. It analyzes data obtained through prolonged fieldwork at a court in central China. The article finds that the court has directly responded to central level mediation incentives by enhancing its overall mediation rate. It has done so strategically by seeking the highest increase using the fullest discretion in the mediation incentive structure and seeking to optimize the highest rate at the lowest cost and risk to the court. This has undermined the objectives of the central level incentives toward mediation, while also drawing the courts' scarce resources away toward unnecessary mediation practices, in part far removed from the courtroom. The article concludes by drawing out broader theoretical conclusions about how information asymmetries, discretion, and goal displacement play out in hierarchical control structures of authoritarian courts.

Italian Mediators in Action: The Impact of Style and Attitude

Luigi Cominelli & Claudio Lucchiari
Conflict Resolution Quarterly 35(2): 223-242 (Winter 2017)

We analyzed a questionnaire sent to Italian mediators. We sought to investigate three areas: style of mediation, personal attitude toward the conflict, and effectiveness in leading the parties to a negotiated agreement in mediation. We found no significant correlations between the style of mediation and the attitude of the respondents to the conflict. Respondents with postgraduate training in economics or accounting achieved higher rates of settlement. The style of the mediator may be of some use as a paradigm of orientation, but has no sufficient predictive value to be confirmed as a key to the functioning of the mediation.

Users of Commercial Mediation in New Zealand – Insurance Industry Report

Grant Hamilton Morris & Freya McKechnie
Published by Resolution Institute/Victoria University of Wellington (2017). Available at <https://www.resolution.institute/documents/item/2442>

The results of this survey provide an understanding of users' perspectives on mediation. The respondents reported a good knowledge of mediation. They also indicated that the insurance industry as a whole is aware of mediation and supports the use of it. Users report they are using mediation often and believe that it is well utilized in the insurance sector. However, most estimate that the organizations they work for use mediation less than 25 times in any given year. Respondents' main reason for using mediation is its cost-effectiveness. Respondents' main reason for not using mediation is the other party's unwillingness. This indicates the party on the other side of a dispute may be a barrier to using mediation. Respondents also noted that the other party having a weak case or unrealistic expectations were reasons not to use mediation.

Realizing Rationality: An Empirical Assessment of International Commercial Mediation

Stacie Strong

Washington and Lee Law Review 73: 1973-2084 (Fall 2016)

[V]ery little is actually known about how the international community uses and perceives mediation in the cross-border business context. This type of informational deficiency hinders individual and institutional actors' ability to operate in a rational manner. This Article therefore analyzes findings from the first-ever large-scale empirical study on international commercial mediation, providing hard data about current behaviors, beliefs and practices and testing fundamental theories about the use, nature and future of this particular process.

Understanding Pathways to Family Dispute Resolution and Justice Reforms: Ontario

Court File Analysis and Survey of Professionals

Michael Saini, Rachel Birnbaum, Nicholas Bala & Brenden McLarty

Family Court Review 54(3): 382 – 395 (July 2016)

This article reports on two related studies about varying pathways to the resolution of family disputes and the effects of family justice reforms in Ontario: a survey of family court professionals ($n = 118$) and an analysis of 1,000 closed court files of family cases involving children. Both studies reveal that the vast majority of cases are resolved without a trial, often by negotiation. While professionals generally support family justice reform initiatives, there remain significant gaps in the implementation of these strategies. For example, many litigants do not attend information programs despite the requirement for mandatory attendance; there is limited use of mediation; the views of children are being sought in only a small number of cases; and there is a large proportion of self-represented family litigants. Despite the increase in shared care and joint decision-making arrangements, a majority of cases in the court file study were sole custody arrangements to the mother, whether the case was settled or resolved by trial. Mediation was associated with greater time of contact with the non-primary residential parent (usually the father). [DRM Winter 2017]

From Anecdote to Evidence: The New Zealand Commercial Mediation Market

Grant Morris

New Zealand Business Law Quarterly 22: 10-30 (March 2016)

Mediation is regularly used to resolve commercial disputes in New Zealand. There has been no empirical data revealing the nature of our commercial mediation market, unlike other areas of mediation. This article is based on a research project which surveyed and interviewed commercial mediators. The findings reveal the nature of the market for the first time and move scholarship in this area from anecdote to evidence. Despite the important role that commercial mediation plays in New Zealand's legal system, the market is relatively small and dominated by a tiny group of practitioners. The mediation profession's key focus should be on growing the market rather than on trying to carve the existing market up into small slices.

To Conciliate or Not to Conciliate: Empirical Evidence from Labour Disputes in India

Rahul Suresh Sapkal

Conference Proceedings, 1st International Law and Economics Conference, organized by Gujarat National Law University; Indian Institute of Technology, Kanpur; and Indian Institute of Management, Ahmadabad (2015). Available at SSRN: <http://ssrn.com/abstract=2580803>)

The paper uses a newly obtained dataset on labour disputes from two Central Government Cum Industrial Tribunals (CGIT's) in India, namely the Mumbai CGIT and the New Delhi CGIT, for the period 2008-2011. The empirical strategy allows the study to untangle the impact of a mandatory conciliation process on negotiated settlements and disposition time as compared to a non-mandatory conciliation process, using three main variables: 1) total case disposition time, 2) differences in outcomes achieved by workers, and 3) the final payments received by workers. Results indicate that, at an aggregate level, labour disputes settled in the conciliation process take less time than labour disputes appealed in the labour courts. Moreover, the study observes that labour disputes resolved in the mandatory conciliation process settled more quickly compared to disputes that participated in a non-mandatory conciliation process. Finally, the study argues that a mandatory conciliation process provides an efficient way to reduce differences in the final payments received by workers, as it provides a time-bound negotiation space to disputing parties relative to other methods of ADR. In the context of developing countries like India, the analysis provides strong empirical evidence to support policy measures on use of conciliation mechanisms to resolve labour conflicts. The paper also discusses conciliation's social welfare benefits. [DRM Summer 2015]

Accessing Justice Through Settlement? Repeat Players in Court-Connected Mediation and Conciliation Programs in Brazil

Maria Cecília De Araujo Asperti

FGV Direito SP Research Paper Series n. 133 (October 2015). Available at SSRN: <https://ssrn.com/abstract=2676293> or <http://dx.doi.org/10.2139/ssrn.2676293>

Do repeat players come out ahead in court mediation and conciliation in Brazil? In order to address this issue, the research investigates how consensual mechanisms are used by courts to deal with repeated litigation and which are the practices and techniques specifically aimed at repeated disputes. The characteristic elements of these repeated disputes are the similarity of the factual and/or legal arguments, the representativeness of the volume of claims and the fact that one of the parties litigates in similar disputes more often, while the other is involved in such type of cases only occasionally. These "repeat players" are known as the great litigants of the Judiciary, and enjoy certain advantages in terms of bargaining power, resources and information in view of their size and the frequency with which they are involved with similar cases. An empirical research was carried out in court programs to study the perceptions of the players involved in the design and routines of these programs on the issues raised. It was found that repeated litigation is a crucial part of court conciliation and mediation programs, influencing the role of the main stakeholders (parties, lawyers and conciliators/mediators), screening and case management practices, access conditions, specific techniques and the role played by the Judiciary, who shall also act as manager, designer and institutional mediator. It is concluded that the structure and design of these programs and the role of those involved can be key factors for an adequate treatment of repeated disputes in the judicial context.

Internal Contradictions of Judicial Mediation in China

Kwai Hang Ng & Xin He

Law & Social Inquiry 39: 285–312 (2014)

Judicial mediation in China represents an extreme case of integration between adjudication and mediation. Based on ethnographic work and extensive interviews, this article studies how judicial mediation actually works in China. It finds that the incorporation of mediation as part of the official trial process creates a set of internal contradictions. In addition to the role conflict inherent in a judge's acting also as a mediator, adjudication and mediation stages are organized by different principles. When the rather rigid format of adjudication is carried over to in-trial mediation, it curtails the flexible, non-legalistic approach that mediation is meant to promote. Challenged authority, an uncontrolled process, narrowed issues, and weakened norms all make a settled outcome difficult to achieve. On the other hand, the proactive role that judges assume in mediation also undermines their impartiality, a quality that is required for adjudication. In comparison with judicial mediation in other jurisdictions (the US, Quebec, Japan), this case study from China reveals the problems of completely merging mediation with adjudication. The study suggests that a certain procedural distance is required to preserve the integrity of both processes. [DRM Winter 2014]

“Rebooting” the Mediation Directive: Assessing the Limited Impact of its Implementation and Proposing Measures to Increase the Number of Mediations in the EU (January 2014)

Giuseppe De Palo, Leonardo D’Urso, Mary Trevor, Bryan Branon, Romina Canessa, Beverly Cawyer & L. Reagan Florence

A Report Requested by the European Parliament [Terms of Reference IP/C/JURI/IC/2013-062]. Available at: [http://www.europarl.europa.eu/RegData/etudes/etudes/join/2014/493042/IPOL-JURI_ET\(2014\)493042_EN.pdf](http://www.europarl.europa.eu/RegData/etudes/etudes/join/2014/493042/IPOL-JURI_ET(2014)493042_EN.pdf)

Five and a half years after its adoption, the European Union Mediation Directive (2008/52/EC) has not yet solved the “EU Mediation Paradox.” Despite its proven and multiple benefits, mediation in civil and commercial matters is still used in less than 1% of the cases in the EU. This study, which solicited the views of up to 816 experts from all over Europe, shows that this disappointing performance results from weak pro-mediation policies, whether legislative or promotional, in almost all of the twenty-eight member states. The experts strongly supported a number of proposed non-legislative measures that could promote mediation development. More fundamentally, the majority view of these experts suggests that introducing a “mitigated” form of mandatory mediation may be the only way to promote the use of mediation in the EU. The study therefore proposes two ways to “reboot” the Mediation Directive: change it, or, based on the current wording of its Article 1, request that each member state commit to, and reach, a simple “balanced relationship target number” between civil litigation and mediation.

Court–Annexed Mediation in Indonesia: Does Culture Matter?

Fatahillah Abdul Syukur & Dale Margaret Bagshaw

Conflict Resolution Quarterly 30(3): 369-390 (Spring 2013)

A Western model of court-annexed mediation was introduced into the Indonesian courts in 2003, but has been relatively unsuccessful. The authors argue that one factor contributing to this is the failure of mediators to use culturally appropriate approaches and emphasize the need for mediators to be trained to be culturally fluent and self-reflexive. They analyze cultural factors relevant to mediation with participants from diverse cultural backgrounds and implications for

training. *Musyawah mufakat*, the indigenous way of resolving disputes, is compared to a Western interest-based model of mediation and a case study illustrates how the process can incorporate an indigenous approach.

East Asians' Social Heterogeneity: Differences in Norms Among Chinese, Japanese, and Korean Negotiators

Sujin Lee, Jeanne Brett & Ji Hyeon Park

Negotiation Journal 28(4): 429-452 (October 2012)

Contrary to the widely-held assumption that East Asian cultures are homogeneous in their value for harmonious social relationships, we proposed that Chinese, Japanese, and Korean managers would endorse different norms for negotiation tactics because of differences in the focus (dyadic in China versus group in Japan) and the nature (emotional in Korea versus instrumental in China) of social relations in these cultures. The data from a web survey of Chinese, Japanese, and Korean managers showed that managers from these three countries endorsed various distributive or integrative negotiation tactics, consistent with their cultures' different cultural emphases in business and other social relationships. When negotiating with managers from China, Japan, or Korea, it is worthwhile to try to understand the subtle differences among the countries' social concepts—the Chinese *guanxi*, the Japanese *wa*, and the Korean *inhwa*—which can subsequently help construct the most effective and tailored negotiation approach. [DRM Summer 2013]

Three Years of Court-Connected Small Claims Mediations: The Importance of System, Program, Case, and Mediator Characteristics to the Court Mediation Program's Outcomes (August 2012)

Sarah Vander Veen & Angela Mallard, Mediate BC Society's Court Mediation Program.

Available at: http://www.mediatebc.com/PDFs/1-52-Reports-and-Publications/Lessons-Learned-FINAL-VERSION_07-Aug-2012.aspx

In this report, we present an analysis of all 4,327 of the CMP's cases that were mediated between April 1, 2008 and August 15, 2010. The purpose of this analysis was to determine which characteristics of the Small Claims System ("System Characteristics"), the Court Mediation Program itself ("Program Characteristics"), the case ("Case Characteristics"), and/or the mediators ("Mediator Characteristics") were related to settlement at mediation. In this analysis, we used the CMP's narrow definition of "settlement". Specifically, a mediation was only considered "settled" if a Form 25 Mediation Agreement was completed at the end of the mediation session. However, many cases do settle within a few weeks of mediation, and these settlements are likely due, at least in part, to the mediation. However, because of the narrow way in which settlement was defined, we were not able to assess the contribution that mediation made toward settling these cases. Thus, this study underestimates the full impact of mediation on small claims cases.... Taken together, the results of this study indicate that most cases seem to settle under the CMP mediation model when they are within the range of claim amounts that the program was designed to mediate, i.e., under \$10,000. Cases with higher claim amounts that are mediated in the Vancouver Registry settle far less often especially claims of exactly \$25,000. This does not mean that mediation is not effective with higher claim amounts. It simply means that the current CMP model must be modified to be more effective with these types of cases.

MEDIATION: FAMILY

Mediators' and Disputing Parties' Perceptions of Trust-Building in Family Mediation

Joan Albert Riera Adrover, María Elena Cuartero Castañer & Juan José Montaña Moreno
Negotiation and Conflict Management Research 13(2): 151-162 (May 2020)

Different studies have demonstrated that trust-building between mediators and disputing parties is a basic factor in the success of mediation processes. The aim of this study was to conduct an integrated analysis of mediation by taking into account the perceptions of mediators working for the Mediation Service and those of the service users over a period of one year. The obtained results show statistically significant differences in the two groups' analyzed response patterns associated with a series of factors that predict trust-building (the mediator's legal expertise; suggesting an alternative; sincerity; focusing on settling the dispute; the appointment of a mediator by public authorities and/or by a recognized service; focusing on the parties' common goals; highlighting the rules of mediation; and devoting some time to talking about informal matters). The identification of these factors contributes to improved training and professional practices in the field of mediation. [interesting approach and results, but country-specific data (Balearic Islands Mediation Service in Spain) might limit applicability – a limitation acknowledged by the authors]

How Does Domestic Violence Influence the Likelihood of Settlement in Mediation? New Data Answers Old Questions

Susan S. Raines & Vittorio Indovina

Conflict Resolution Quarterly 37(3): 195-205 (Spring 2020)

This study provides empirical evidence to answer critical questions surrounding the impact of various domestic violence (DV) behaviors on mediation settlement rates, party perceptions of safety, and perceptions of coercion in reaching agreements. The authors found there is no evidence that survivors of DV are being coerced into reaching unfair or unsafe agreements at the aggregate level. They also found that coercive controlling behaviors such as verbal threats, stalking, and harassment are more strongly correlated to lower settlement rates than a history of physical violence between the parties. Parties felt safer in mediation than other settlement processes (e.g., a hearing before the judge or attorney-negotiated settlement). Overall, cases with a history of domestic violence behaviors have significantly lower settlement rates, yet settling parties noted that they felt their settlement provisions increased their safety, thereby adding to the complexity needed to determine whether to mediate in specific cases. This means that case screeners, mediators, attorneys, and judges need to take a nuanced and individualized approach to decide whether to mediate in any specific case to ensure the mediation process can be done safely and free from coercion. Additionally, if screening can obtain detailed information about the absence or presence of allegations of specific domestic violence behaviors, mediation administrators can better decide which cases are likely to benefit from mediation and which are simply too fraught to justify bringing at-risk parties to the table. This research deepens our understanding of the impact of specific domestic violence behaviors on the process and outcomes of mediation. [DRM Winter 2021]

Mediation Strategies in the Face of Custody Conflicts

Wenke Gulbrandsen, Hanne Haavind & Odd Arne Tjersland
Conflict Resolution Quarterly 36(4): 293-309 (Summer 2019)

Systematic analyses of initiatives and responses from mediators working with parents in intense conflicts about child custody and care brought forward variations in effective strategies. The findings are presented along six dimensions: The topics that were addressed, how the agenda for the sessions was decided, focus on agreement versus relational topics, oral versus written orientation, limited versus generous time, and parental versus system focus. Effective mediators handled these dimensions with flexibility, recognized and validated both parents' perspectives, accepted and explored differences, differentiated topics, focused on relational issues when needed, tracked the process by written summaries, and encouraged testing solutions. Furthermore, important for a successful outcome was the mediators' ability to slow down the speed of the process, to encourage hope, and to meet the parties' own experiences with respect and humility. The article offers several methodological descriptions of this from the sessions. [DRM Spring 2020]

What Works in Custody Mediation? Effectiveness of Various Mediator Behaviors

Lorig Charkoudian, Jamie L. Walter, & Deborah Thompson Eisenberg
Family Court Review 56(4): 544-571 (October 2018)

This study uses behavioral observation and pre-and post-mediation questionnaires to measure the impact of mediator behaviors on participant attitudes and case outcomes in 130 court-connected custody mediations involving 270 participants and 30 mediators. As a quasi-experimental design, regression analysis controlled for a broad range of participant attitudinal and case characteristics. Mediator reflecting and eliciting strategies were associated with positive outcomes, while directing strategies had significant negative effects. Proportionally greater time spent in caucus was associated with increased participant trust in the mediator but more negative attitudes among participants. The article considers implications for mediators and court mediation programs.

High-Conflict Parents in Mediation: An Analysis of Dialogues and Sources to Conflict

Wenke Gulbrandsen, Hanne Haavid & Odd Tjersland
Conflict Resolution Quarterly 35(4): 335-349 (Summer 2018)

A significant proportion of parents in mediation present destructive and escalating conflicts. In a naturalistic study of sessions with high-conflict couples, we observed dialogues with frequent interruptions, rapidly shifting subjects, and emotional attacks. A systematic search revealed eight distinct sources of conflict that interfered with the mediation process: Two related to the breakup, four regarding differing concerns of care for the child, and two mainly about the contextual conditions for childcare arrangements. The article describes these sources of conflicts in a format that could increase the capacity of mediators to recognize and address them during the process of mediation.

The Moral Order in Family Mediation: Negotiating Competing Values

Janet Smithson, Anne Barlow, Rosemary Hunter & Jan Ewing
Conflict Resolution Quarterly 35(2): 173-196 (Winter 2017)

We used discourse analysis to study how mediators and parties negotiate competing priorities and values during the family mediation process. We drew on understandings of practical morality, specifically the concept of a moral order, to study UK mediation session talk. Our analysis highlighted the contradictory moral orders drawn on by parties and mediators. The

saliency of moral categories and concerns in parenting is demonstrated, and we consider the problems this causes in the “no-fault” context of mediation.

Safety, Satisfaction, and Settlement in Domestic Relations Mediations: New Findings

Susan Raines, Yeju Choi, Joshua Johnson & Katrina Coker

Family Court Review 54: 603-619 (October 2016)

This article reports on two related studies about varying pathways to the resolution of family disputes and the effects of family justice reforms in Ontario: a survey of family court professionals (N = 118) and an analysis of 1,000 closed court files of family cases involving children. Both studies reveal that the vast majority of cases are resolved without a trial, often by negotiation. While professionals generally support family justice reform initiatives, there remain significant gaps in the implementation of these strategies. For example, many litigants do not attend information programs despite the requirement for mandatory attendance; there is limited use of mediation; the views of children are being sought in only a small number of cases; and there is a large proportion of self-represented family litigants. Despite the increase in shared care and joint decision-making arrangements, a majority of cases in the court file study were sole custody arrangements to the mother, whether the case was settled or resolved by trial. Mediation was associated with greater time of contact with the non-primary residential parent (usually the father).

Exploring Helpful Tensions between Divorce Mediators and Clients: A Relational Dialectical Analysis

Rachid Baitar, Jan De Mol & Peter Rober

Conflict Resolution Quarterly, 34: 7-29 (Fall 2016)

Addressing calls for more mediation process research, this qualitative study explored which contradictory tensions are in play in a helpful working relationship between mediators and their clients. Data were collected in semistructured interviews with divorce mediators (n = 12). Relational dialectical analysis detailed how divorce mediators varied practice styles along the central opposing pulls of client self-determination and professional control, neutrality and engagement, and efficiency and exploration. The findings counterbalance traditional hallmarks of mediation and highlight a range of dynamic truths in which mediators operate. Methodological limitations and implications for research and practice are discussed.

Mandatory Mediation Outside the Court: A Process and Effect Study

Odd Tjersland, Wenke Gulbrandsen & Hanne Haavind

Conflict Resolution Quarterly 33: 19-34 (Fall 2015)

In a study of 154 couples in precourt mandatory mediation in Norway, a majority of the thirty-eight high-conflict (HC) cases left the mediation after two sessions and without any agreements. Eighteen months later, five of ten HC couples were still without an agreement. With seven sessions available free of charge, the mediation system seems to fail at helping the HC cases. The authors discuss some of the challenges that are attached to a mandatory mediation system. One explanation seems to be the attempt to fulfill several ambitions with the same intervention. Some ideas for improvement of the system are introduced. [DRM Winter 2016]

A Mentalizing-Based Approach to Family Mediation: Harnessing Our Fundamental Capacity to Resolve Conflict and Building an Evidence-Based Practice For the Field

Jill Howieson & Lynn Priddis

Family Court Review 53: 79-95 (January 2015)

This article presents the results of a research study into mentalizing in family mediation. The study employed a mixed-method approach, which included quantitative and qualitative empirical analysis of mediation transcripts and postmediation surveys. The research identified that, when the mediators adopted a mentalizing stance to facilitate the parties to engage their mentalizing capacities and, in particular, to mentalize for the child, the mediation process became more constructive and meaningful. The article makes recommendations for incorporating a mentalizing-based approach into the research and education of mediation and building an evidence-based practice for the field.

Does Level of Intimate Partner Violence and Abuse Predict the Content of Family Mediation Agreements?

Fernanda S. Rossi, Amy Holtzworth-Munroe & Amy G. Applegate

Family Court Review 53(1): 134-161 (January 2015)

This study investigated whether reported levels of intimate partner violence (IPV) and/or abuse (IPV/A) victimization are related to reaching agreement and to the content of mediation agreements of parties seeking to resolve family- and child-related issues. The authors analyzed whether or not parties reached agreement in 105 cases at a law school mediation clinic and coded agreement content for the 71 cases that reached agreement. Levels of IPV and IPV/A were determined separately for males and females, using a standardized measure. Results indicated that mediation may help families with a reported history of IPV and IPV/A address a variety of concerns: levels of partner violence/abuse predicted numerous issues in mediation agreements, including arrangements regarding legal custody, parenting time, holidays, child exchanges, inter-parental communication, safety restrictions, counseling referrals, child support, financial arrangements, and other miscellaneous topics (e.g., relocation). However, some findings were consistent with concerns raised about the use of mediation with parties reporting IPV and IPV/A: for example, increasing levels of male-perpetrated IPV/A predicted increased likelihood of making an agreement to share legal custody. The authors conclude that further research is needed to resolve the longstanding debate of whether divorce mediation is an effective and safe process for parties demonstrating IPV/A. [DRM Summer 2015]

What Works in Child Access Mediation: Effectiveness of Various Mediation Strategies on Custody Cases and Parents' Ability to Work Together

Lorig Charkoudian, Maryland Administrative Office of the Courts, Court Operations, Funding from the State Justice Institute, Grant Number SJI-12-N-003 (September 2014). Available at www.courts.state.md.us/macro/pdfs/reports/whatworksinchildaccessmediation201409report.pdf

This research measures the effectiveness and efficiency of various approaches to mediation in custody, visitation, and child access cases in Maryland court rules (Maryland Title 9-205) require that all contested child access cases be ordered to mediation, except in cases of abuse.... The goal of this research is to understand what components of the mediation process affect a variety of outcomes for participants. As would be expected, this research examines which mediation strategies and program components affect the probability of reaching agreements and consent orders. This research goes further to consider which mediation strategies

and program components affect the types of agreements reached as well as the attitudinal shifts of the parents toward each other and their belief in their ability to work together.

Mediator and Survivor Perspectives on Screening For Intimate Partner Abuse

Shereen G. Bingham, Kerry L. Beldin & Laura Dendinger

Conflict Resolution Quarterly 31(3): 305-330 (Spring 2014)

This qualitative study illuminates how family mediators and domestic violence survivors in Nebraska perceive the process used to screen parents for intimate partner abuse (IPA) prior to participation in parenting plan mediation. In-depth interviews and a focus group discussion were analyzed to compare the mediators' and survivors' perspectives. Similarities and differences in perspective emerged, with mediators less attentive to several concerns that were central to screening from the survivors' standpoint. Survivors said victims may fear losing their children or being harmed by the abuser as a result of participation in screening; that victims differ in their readiness to answer questions and so screening should be adapted accordingly; and that immediate counseling and safety after screening should be available. Mediators are challenged to remain neutral in screening while protecting the rights and safety of parties when IPA is present. They must negotiate the tension between obtaining information from survivors while being sensitive to the emotional and physical risks of discussing the abuse. Agencies can support mediators who screen with appropriate training about the circumstances of abuse and the inherent risks survivors face with disclosure. Implications for screening practices of family mediators are discussed. [DRM Winter 2015]

NEGOTIATION: GENERAL

Face Threat Sensitivity in Distributive Negotiations: Effects on Negotiator Self-esteem and Demands

Ece Tuncel, Dejun Tony Kong, Judi McLean Parks & Gerben A. van Kleef

Organizational Behavior and Human Decision Processes 161: 255-273 (November 2020)

Face threat sensitivity (FTS) is defined as reactive sensitivity to threats to one's social self-worth. In negotiations, such threats may come from a counterpart's competitive behavior. We developed and tested the argument that individuals high in face threat sensitivity, when negotiating with a competitive (vs. cooperative) counterpart, exhibit psychological responses that inhibit them from claiming value in distributive negotiations. Employing a face-to-face interaction paradigm, Study 1 revealed that higher counterpart competitiveness was negatively associated with high (but not low) FTS negotiators' global self-esteem, which in turn led them to be less demanding and obtain worse negotiation outcomes. In Study 2, employing a simulated on-line interaction paradigm, we manipulated counterpart's behavior (cooperative vs. competitive) to establish causality and examined specific aspects of negotiator global self-esteem that may account for the effect. We found that the effect of counterpart's competitiveness on high FTS negotiators' demand levels was mediated by their PERFORMANCE self-esteem, but not by their SOCIAL self-esteem. In Study 3, we manipulated performance self-esteem to establish it as a causal underlying psychological mechanism. For high FTS negotiators, when performance self-esteem was low, demand levels were significantly lower with a competitive (vs. cooperative) counterpart. However, when performance self-esteem was high, there was no significant difference in demand levels depending on counterpart's behavior. This finding suggests that negotiating with a competitive (vs. cooperative) counterpart reduces high FTS

negotiators' performance self-esteem, which in turn leads them to make lower demands. The implications of these findings are discussed.

The Shadow Bargainers

Ronald F. Wright, Jenny Roberts & Betina Cutaia Wilkinson

Cardozo Law Review (Forthcoming). Available at SSRN:

https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3577322 (October 2020)

In this article, the authors report on the responses of more than 500 public defenders who participated in a nationwide survey about their objectives and practices during plea negotiations. The survey responses create a rare empirical test of a major tenet of negotiation theory, the claim that attorneys bargain in the “shadow of the trial.” Describing the factors they believe to be important in plea negotiations, some defenders – those who emphasize the importance of collateral consequences or the pre-trial custody of their clients – do not stress the likely outcome at trial. Instead, these attorneys focus on the wants and needs of clients, hoping to persuade the prosecutor to operate outside a trial-prediction framework. These defense attorneys might ask the prosecutor to dismiss charges, divert the defendant out of the system, or recommend a sentence far below the expected outcome. Such outcomes are independent of any likely trial result or post-trial sentence. These defense attorneys, the authors argue, bargain in the “shadow of the client” rather than the shadow of the trial. The authors find that attorneys with the most years of experience tend more often to adopt the “shadow of the trial” theory.

After asking public defenders about their plea bargaining aspirations, the survey turns to actual negotiation practices. Here defenders' self-reported bargaining methods do not measure up to their declared aspirations. For example, when it comes to fact investigation, file review appears to be the strong suit of defense attorneys, but other forms of factual investigation, such as witness interviews and site visits, occur less often, even in categories of cases where such investigation might prove useful. Defense attorneys also typically wait for prosecutors to make the first offer, despite the potential benefits of framing. A related article discusses the survey results about limited training opportunities for criminal practitioners to improve their negotiation skills. See Jenny Roberts & Ronald F. Wright, Training for Bargaining, *William & Mary Law Review* 57: 1445-1504 (2015-2016) [DRM Winter 2021]

Whatever We Negotiate is Not What I Like: How Value-Driven Conflicts Impact Negotiation Behaviors, Outcomes, and Subjective Evaluations

Carolin Schuster, Johann M. Majer & Roman Trötschel

Journal of Experimental Social Psychology 90: 103993 (September 2020)

Value conflicts have been shown to impair negotiation behaviors and outcomes (Harinck & Ellemers, 2014). The present studies aim to replicate and extend this finding in a paradigm where the parties' values were different, but not opposed. We hypothesized that activating values, rather than utilities, as motives in a negotiation would not only impair negotiation behavior and outcomes, but also subjective evaluations of the negotiated agreements. We further predicted that information provided about the counterparts' priorities would be a less effective facilitator of integrative negotiating in value-driven than in utility-driven conflicts. Two preregistered experiments (N = 176/310) confirm that a value motive leads to an increased aversion to trade-offs and to more compromise offers (Studies 1 and 2), and to lower individual and joint outcomes (Study 2). The results also show that the activation of value rather than utility motives in the parties trigger subjective perceptions of clashing values rather than conflicting interests,

even though the values were not opposed. By triggering these perceptions, the value motives indirectly lead to worse subjective evaluations of the outcome, the process, the self, and (in Study 2) the relationship, even when controlling for objective outcomes. Providing information about the counterpart's underlying motives did not produce conclusive differential effects on negotiation behaviors and outcomes, possibly because the shared information did not increase the perceived discrepancy between counterparts. Theoretical and practical implications of the results for value-driven conflicts are discussed.

Toward a Better Understanding of the Mindsets of Negotiators: Development and Construct Validation of the Scale for the Integrative Mindset (SIM)

Valentin Ade, Michael Dantigraber, Carolin Schuster & Roman Trötschel
Journal of Personality and Social Psychology 119(3): [no pagination specified online]
(September 2020)

This article introduces and discusses the 15-item Scale for the Integrative Mindset (SIM) of negotiators, that is of people involved in joint decision-making processes. The scale is based on the integrative mindset (Ade, Schuster, Harinck, & Trötschel, 2018), which describes a set of three inclinations of parties approaching negotiations: a collaborative, a curious, and a creative one. Using a first sample (N = 1,030) of online survey participants, we provide evidence for a high psychometric quality of the SIM as suggested by high reliabilities and good fit indices. We also compare the SIM with scales that measure well-known and possibly related psychological constructs and show the SIM's distinction to them. Using a second sample (N = 417), we show how the SIM differs from a Scale on Inappropriate Negotiation Strategies (SINS) that has been used in previous negotiation research. The findings of the present studies are discussed with respect to potential applications of the SIM in experimental research.

Insincere Negotiation: Using the Negotiation Process to Pursue Non-Agreement Motives

Polly Kang, Krishnan S. Anand, Pnina Feldman & Maurice E. Schweitzer
Journal of Experimental Social Psychology 89: 103981 (July 2020)

Negotiation scholars have assumed that participants enter negotiations with the intent to reach an agreement. In addition, negotiation scholars have assumed that negotiators cannot be significantly harmed by the negotiation process itself. The authors challenge both of these assumptions and identify important implications. They introduce the term INSINCERE NEGOTIATIONS to characterize negotiations that involve one or more negotiators who feign interest in seeking an agreement and enter negotiations to pursue non-agreement motives, such as stalling for time, gaining information, or blocking a competitor from reaching an agreement. They explore how this broader conceptualization of negotiations changes both negotiator behavior and negotiated outcomes and makes the decisions to enter and to persist in a negotiation risky and strategic. Their findings advance negotiation theory in several fundamental ways and have a number of practical implications. For example, their work alerts negotiators to the possibility that a counterpart might use negotiation as a strategic tool to achieve non-agreement motives and identifies some of the strategies an insincere negotiator may use. [DRM Winter 2021]

The Best of Both Worlds? Negotiations Between Cooperators and Individualists Provide High Economic and Relational Outcomes

Sinem Acar-Burkay, Vidar Schei & Luk Warlop

Group Decision and Negotiation 29(3): 491-522 (June 2020)

Because negotiation is an integral part of social life, negotiators with different social motives are likely to meet. When this happens, will they be able to handle their differences constructively? We examined the relations between dyads' social motive composition (cooperative, individualistic, or mixed), negotiation behavior, and economic and relational outcomes. In a laboratory experiment, 108 simulated negotiations were audiotaped, transcribed and coded. For economic outcomes, mixed dyads achieved higher profits than cooperative and individualistic dyads did, and this effect was mediated mainly by the negotiators' problem-solving strategies. For relational outcomes, mixed and cooperative dyads experienced higher relational capital than individualistic dyads did, and this effect was mediated mainly by relationship management strategies. A follow-up survey conducted seven months later revealed that relational capital persisted over time. Overall, the results indicate that mixed-dyad negotiations between individualists and cooperators may bring out the best in both types of negotiators, making these dyads more successful than homogenous dyads.

Take the Right Turn: The Role of Social Signals and Action–Reaction Sequences in Enacting Turning Points in Negotiations

Michele Griessmair & Johannes Gettinger

Group Decision and Negotiation 29(3): 425-459 (June 2020)

Negotiations and conflicts do not evolve smoothly but are discontinuous involving transitions, break-, and turning points that change the flow of the negotiation. Given that these departures may be decisive in determining whether the involved parties come to a successful conclusion, several scholars have pointed out the importance of investigating whether impasse and settlement dyads exhibit different turning point profiles. To address this question, we extended Druckman's (J Confl Resolut 45:519–544, 2001) turning point model by integrating interlocking action–reaction sequences that initiate and (dis)confirm the departure from zero-sum bargaining. Furthermore, we consider social signals as previously not addressed class of events triggering the turning point. We propose and show that social signals act as precipitants to substantive change at the offer level and that how negotiators enact the action–reaction sequences discriminates between successful and unsuccessful dyads.

The “Fixed” Pie Perception and Strategy in Dyadic versus Multiparty Negotiations

Mary C. Kern, Jeanne M. Brett, Laurie R. Weingart & Chase S. Eck

Organizational Behavior and Human Decision Processes 157: 143-158 (March 2020)

Negotiations are strategically, socially, and motivationally complex, and theorists argue that when there are multiple (compared to two) parties at the table, these complexities are exacerbated, leading to inefficient outcomes. The authors proposed that inefficient outcomes of multiparty negotiations were not a foregone conclusion. If multiparty negotiators brought weaker fixed-pie perceptions to the table than two-party negotiators, they might be motivated to use strategy differently from two-party negotiators and thereby address the complexity of their negotiation context.

In three studies, multiparty compared to two-party negotiators had weaker fixed-pie perceptions, engaged in more integrative strategic behavior, shared information about priorities,

and used more complex sequences of integrative and distributive behavior strategy. This pattern of use of strategy led multiparty negotiators to outcomes equivalent to those of two-party negotiators. These results suggest that the presence of multiple other negotiators leads to a reassessment of the assumption that the other party's (or parties') interests are directly and completely opposed to one's own interests. Instead, negotiators in the multiparty context anticipated that other parties might be partially aligned with them and used strategy to identify that alignment.

The fixed-pie bias causes negotiators to fail to identify tradeoffs and create value in negotiation because the bias affects the way negotiators use strategy. The structure of multiparty negotiation reduces the strength of the fixed-pie bias, affects the way multi-party negotiators use strategy, and helps them reach efficient outcomes despite the complexity of the information they have to process. [DRM Winter 2021]

Open for Learning: Encouraging Generalization Fosters Knowledge Transfer in Negotiation

Jihyeon Kim, Leigh Thompson & Jeffrey Loewenstein

Negotiation and Conflict Management Research 13(1): 3-23 (February 2020)

We examined whether encouraging managers to attend to underlying principles in negotiation training examples rather than contextual specifics fosters openness to learning and enhances subsequent knowledge transfer to new negotiation situations. In an experimental study, 420 managers read a negotiation case study example set in a familiar or unfamiliar industry and answered either broadening or narrowing questions about an example. Managers given broadening questions about an example set in an unfamiliar industry were more open to learning than managers who were asked narrowing questions about an example set in a familiar industry. Openness to learning in turn fostered successfully applying the key negotiation principle to resolve a subsequent face-to-face negotiation. The findings suggest that negotiation training for professionals is unlikely to meet its intended purpose if it relies on offering managers examples set in their own industries and encouraging them to answer questions about the contextual specifics of those examples.

Moral Obstinacy in Political Negotiations

Andrew W. Delton, Peter DeScioli & Timothy J. Ryan

Political Psychology 41(1): 3-20 (February 2020)

Research in behavioral economics finds that moral considerations bear on the offers that people make and accept in negotiations. This finding is relevant for political negotiations, which often involve moral concerns. However, behavioral economics has yet to incorporate a major theme from moral psychology: people differ, sometimes greatly, in which issues they perceive to be a matter of morality. For instance, some people might view minimum-wage laws or government-funded stem cell research as moral issues; others might evaluate these based only on the concrete outcomes they produce. The authors hypothesize that moral conviction leads to uncompromising bargaining strategies and failed negotiations. They test this idea in three incentivized experiments in which participants bargain over political policies with real payoffs at stake. For example, in one study, two people independently and simultaneously made bids for how to split a fixed sum of real money. Compatible bids were actually paid out. But if the bids added up to more than the fixed sum, no one got anything. Across several negotiations, participants were asked to imagine that they were negotiating on different political issues (e.g.,

minimum wage, stem cell research, progressive taxation). Each time, they were paired with a different, real person who disagreed with them on the issue. The authors found that participants who had stronger moral convictions on a given issue were more likely to bargain aggressively on that issue. So, for example, people who viewed minimum wage laws as moral issues made higher bids. This helps explain why it is harder to forge bargains on some political issues than others. The authors also find that liberals and conservatives differ in which issues they have moral convictions about. For instance, liberals have strong moral convictions about the minimum wage and progressive taxation and conservatives about stem cell research. [DRM Winter 2021]

Communicating with Warmth in Distributive Negotiations is Surprisingly Counterproductive

Martha Jeong, Julia Minson, Michael Yeomans & Francesca Gino
Management Science (Articles in Advance) pp. 1-25 (July 2019)

When entering into a negotiation, individuals have the choice to enact a variety of communication styles. The authors test the differential impact of being “warm and friendly” versus “tough and firm” in a distributive negotiation when first offers are held constant and concession patterns are tracked. The authors trained a natural language-processing algorithm to precisely quantify the difference between how people enact warm and friendly versus tough and firm communication styles. The authors find that the two styles differ primarily in length and their expressions of politeness (Study 1). Negotiators with a tough and firm communication style achieved better economic outcomes than negotiators with a warm and friendly communication style in both a field experiment (Study 2) and a laboratory experiment (Study 3). This was driven by the fact that offers delivered in tough and firm language elicited more favorable counteroffers. The authors further find that the counterparts of warm and friendly versus tough and firm negotiators did not report different levels of satisfaction or enjoyment of their interactions (Study 3). Finally, the authors document that individuals’ lay beliefs are in direct opposition to the studies’ findings: participants believe that authors of warmly worded negotiation offers will be better liked and will achieve better economic outcomes (Study 4). [DRM Spring 2020]

Prior Interaction, Identity, and Cooperation in the Inter-group Prisoner's Dilemma

Timothy N. Cason, Sau-Him Paul Lau & Vai-Lam Mui

Journal of Economic Behavior & Organization 166: 613-629 (October 2019)

This paper studies theoretically and experimentally how success in prior interaction affects cooperation in the one-shot Inter-group Prisoner's Dilemma (IPD). We develop a model of the IPD that incorporates group-contingent social preferences and bounded rationality to derive conditions under which an increase in pro-social concerns for an out-group will increase cooperation. We then report an experiment that shows the cooperation rate increases from 8 percent in a baseline one-shot IPD to 42 percent when the IPD is preceded by a coordination game played by members of the two groups. A post-experiment survey and chat coding results using a natural language classification game both show that successful prior interaction increases individuals’ concerns for their out-group.

Buyer and Seller Differences in Business-to-Business Negotiations

Aldís Guðný Sigurðardóttir, Ali Hotait & Tilman Eichstädt

Negotiation Journal 35(2): 297-331 (April 2019)

The purpose of this article is twofold: first, to examine the differences between buyers' and sellers' use of negotiation tactics in face-to-face business-to-business (B2B) negotiations and second, to explore how negotiators' professed negotiation styles influence buyers' and sellers' use of tactics. The methodology is a multiple case study analysis of eighteen negotiators representing twelve companies in six real-life buyer–seller negotiations in B2B settings analyzed using qualitative research methods, including both comparative analysis and frequency analysis. We found some difference between buyers' and sellers' use of negotiation tactics, which suggests this question deserves further empirical study. Buyers' and sellers' use of specific tactics differs according to which overall strategy the negotiators chose, and sellers generally use a greater number of negotiation tactics than buyers. The findings challenge previous findings that suggest that B2B negotiations are collaborative and that negotiators communicate in a collaborative manner. The findings also increase our understanding of buyers' and sellers' variable use of tactics in the course of everyday practice as well as the interplay between negotiation tactics and strategies.

The Rules of Exchange: The Role of an Exchange Surplus in Producing the Endowment Effect

Laurence Ashworth, Peter R. Darke, Lindsay McShane & Tiffany Vud
Organizational Behavior and Human Decision Processes 152: 11-24 (May 2019)

The endowment effect is one of the most robust and well-studied phenomena in the behavioral decision literature. The dominant explanation for this effect is that loss aversion and/or the psychological value of ownership changes the subjective valuation of an item. The current research presents evidence for an alternative account of endowment that requires no shift in subjective value. We argue that (a) individuals will only agree to exchange (i.e., buy and sell) if they perceive some minimum net gain, an EXCHANGE SURPLUS, and (b) existing work cannot disentangle the possible effects of an exchange surplus from genuine shifts in subjective value because ownership and exchange are confounded in standard demonstrations of the endowment effect. Four experiments test this idea by separating the effects of exchange from ownership in various ways. Results indicate that exchange has a substantial effect on prices, that this effect appears to be independent of subjective valuation, and that it can explain valuation differences ordinarily ascribed to ownership. We discuss why individuals might demand an exchange surplus and the implications of this for monetary valuation.

Selling to Strangers, Buying from Friends: Effect of Communal and Exchange Norms on Expectations in Negotiation

Jaime Ramirez-Fernandez, Jimena Y. Ramirez-Marin & Lourdes Munduate
Negotiation and Conflict Management Research 12(4): 281-296 (November 2019)

This study examines the effect of relationships on negotiators' expectations. The authors derive theory and hypotheses from relational norms that govern relationships (communal and exchange) which impact negotiators' expectations when interacting with close others. The study focuses on the influence of the negotiator's role (buyer or seller) and relational norms on expected offers. The authors tested the hypotheses across three studies. Results consistently show that close relationships influence expectations such that buyers expect more favorable offers from best friends than from friends and acquaintances (Studies 1–3). And this effect is absent for sellers (Study 1). Moreover, the motivation to meet the needs of the other party (communal strength) is higher for close relationships but it does not moderate the effect of relationships on

expectations (Study 2). Finally, negotiators high in communal strength and exchange orientation norms expect more generous offers from best friends (Study 3).

Threats and Promises in Bargaining

Bobby W.Chung & Daniel H.Wood

Journal of Economic Behavior & Organization 165: 37-50 (September 2019)

If, prior to bargaining, bargainers can make commitments that have some chance of binding their bargaining behavior, they may want to threaten to reject low offers, promise to accept high offers, or both. We show that the timing of commitment attempts influences the goal of the commitments and the likelihood that incompatible threats result in impasse. Sequential commitments enable the player who commits first to make a moderate threat that convinces the second mover not to respond with a threat himself. The moderate threat requires a promise to not renege on the offer if the committed player would otherwise have incentives to deviate. This combination of tactics is not feasible when commitments are made simultaneously.

“Take it or Leave it!” A Choice Mindset Leads to Greater Persistence and Better Outcomes in Negotiations

Anyi Ma, Yu Yang & Krishna Savani

Organizational Behavior and Human Decision Processes 153: 11-24 (July 2019)

Negotiators often elicit concessions from their counterparts by using ultimatums. The present research asks: Why do some negotiators either concede to ultimatums or leave the bargaining table, whereas others simply ignore ultimatums and continue negotiating? Six studies examined the role of a CHOICE MINDSET. Negotiators who recalled their past choices perceived greater negotiation room than negotiators who recalled past no-choice actions (Study 1). Negotiators who thought about their counterpart’s choices (rather than constraints) were more willing to persist (Study 2), and this relationship was mediated by greater perceived negotiation room (Studies 3 and 4). A choice mindset also helped negotiators achieve better outcomes (Study 5). Finally, Study 6 compared the relative strengths of thinking about different types of choices (e.g., one’s own choices vs. one’s counterpart’s choices both within and outside the negotiation). The findings identify the choice mindset as a novel intervention to enhance persistence and improve negotiation outcomes.

Effects of Humor on Intergroup Communication in Intractable Conflicts: Using Humor in an Intergroup Appeal Facilitates Stronger Agreement Between Groups and a Greater Willingness to Compromise

Nimrod Nir & Eran Halperin

Political Psychology 40(3):467-485 (June 2019)

Conflict between rival parties induces strong socio-psychological barriers, which are often more destructive than their actual disagreements. Finding ways to overcome these barriers may bring forth innovative, practical methods for conflict resolution, which may be relevant to a vast array of conflicts, from arbitration to war. This article examines the use of humor – an extremely effective technique of persuasive communication – as one potential route whose potency in resolving intractable conflicts has thus far been neglected. In Study 1, Palestinians who read a message from an “Israeli representative” (conveying the Israeli narrative of the conflict) agreed more with the Israeli perspective once three short humorous asides were added to the original statement. When these humorous asides targeted Jewish-Israelis, Palestinian-

Israeli participants were more willing to compromise on various aspects of the conflict. In Study 2, Jewish-Israelis who read a message from a “Palestinian representative” were more agreeable to the Palestinian message (portraying the Palestinian narrative) once three short humorous asides were added to the original statement. When these humorous asides were general in nature (but not when they targeted Palestinian-Israelis), Jewish-Israeli participants were more willing to compromise on various aspects of this intractable conflict. These findings further demonstrate the power of psychological barriers in conflict dynamics and the potential of humor to overcome them. Implications and limitations of the current research are discussed.

Handshaking Promotes Deal-making By Signaling Cooperative Intent

Journal of Personality and Social Psychology 116(5): 743-768 (May 2019)

Juliana Schroeder, Jane L. Risen, Francesca Gino & Michael I. Norton

The authors examine how a simple handshake – a gesture that often occurs at the outset of social interactions – can influence deal-making. Because handshakes are social rituals, they are imbued with meaning beyond their physical features. The authors propose that during mixed-motive interactions, a handshake is viewed as a signal of cooperative intent, increasing people’s cooperative behavior and affecting deal-making outcomes. In Studies 1a and 1b, pairs who chose to shake hands at the onset of integrative negotiations obtained better joint outcomes. Study 2 demonstrates the causal impact of handshaking using experimental methodology. Study 3 suggests a driver of the cooperative consequence of handshaking: negotiators expected partners who shook hands to behave more cooperatively than partners who avoided shaking hands or partners whose nonverbal behavior was unknown; these expectations of cooperative intent increased negotiators’ own cooperation. Study 4 uses an economic game to demonstrate that handshaking increased cooperation even when handshakes were uninstructed (vs. instructed). Further demonstrating the primacy of signaling cooperative intent, handshaking actually reduced cooperation when the action signaled ill intent (e.g., when the hand-shaker was sick; Study 5). Finally, in Study 6, executives assigned to shake hands before a more antagonistic, distributive negotiation were less likely to lie about self-benefiting information, increasing cooperation even to their own detriment. Together, these studies provide evidence that handshakes, ritualistic behaviors imbued with meaning beyond mere physical contact, signal cooperative intent and promote deal-making. [DRM Spring 2020]

Stake Size Effects in Ultimatum Game and Dictator Game Offers: A Meta-Analysis

Andrea Larney, Amanda Rotella & Pat Barclay

Organizational Behavior and Human Decision Processes 151: 61-72 (March 2019)

Are people more generous when less money is at stake? The Ultimatum Game (UG) and Dictator Game (DG) are often used as models of bargaining and charitable giving, respectively. Previous studies have produced conflicting results on whether UG and DG offers are lower when the stakes are high, and many previous studies had insufficient statistical power to detect significant effects of stake size. To resolve this, we conducted a meta-analysis of 31 existing studies that manipulated the size of participants’ endowments in the UG and DG (3233 total participants). We hypothesized that: (1) proposer offers would be lower with larger stakes in both games, owing to an increased cost of giving; and (2) offers would decrease more with stake size in the DG than the UG because proposers would not want to risk their offer being rejected in the UG. Our results found almost zero effect of stake size on UG offers ($d = 0.02$), and a small but significant effect of stake size on DG offers ($d = 0.15$). Furthermore, larger differences in

stakes had little impact on the effect sizes in the UG, but had a medium-large impact on the effect sizes in the DG. These results show that higher stakes reduce donations in the DG, albeit not by much, and have little to no effect in the UG.

The Power of Phantom Alternatives in Negotiation: How What Could be Haunts What is
Robin L. Pinkley, Donald E. Conlon, John E. Sawyer, Dustin J. Slesman, ... Maribeth Kuenzi
Organizational Behavior and Human Decision Processes 151: 34-48 (March 2019)

We examine the notion of a Phantom BATNA – a negotiation alternative that may or may not materialize – and its impact on a current negotiation. Across three studies, we investigate the impact of such alternatives on negotiation, and compare them to when negotiators have a certain BATNA, when they have no BATNA, or when they are provided no information whatsoever regarding a BATNA. We demonstrate that perceptions of power mediate the effects of BATNA likelihood on the performance-related outcomes (final settlements or counter-offers) of negotiators. We establish these effects when the alternative has a known or an unknown likelihood of occurring. Additionally, BATNA likelihood influences the extent to which negotiators mention the possibility of an alternative to their counterpart during the negotiation. Based on our investigation, we offer BATNA likelihood as an important dimension of BATNA influence that can enhance theoretical and practical understanding, and stimulate future research.

From “Sad People on Bridges” to “Kidnap and Extortion”: Understanding the Nature and Situational Characteristics of Hostage and Crisis Negotiator Deployments

Amy Rose Grubb, Sarah J. Brown, Peter Hall & Erica Bowen
Negotiation and Conflict Management Research 12(1): 41-65 (February 2019)

Hostage and crisis negotiation is well established as a police tool, and there is a growing body of literature that provides academic insight into the phenomenon. Academics have developed a corpus of literature to explain the way negotiators operate or how they can resolve incidents successfully. Whilst research in this area has originated from various countries and addressed negotiation from a variety of perspectives, there is limited research that has focused specifically on negotiation from an Anglo-centric perspective. This article presents the findings from a detailed academic examination of negotiator experiences in England, whereby semistructured interviews were conducted with 15 negotiators from nine forces. Analysis using grounded theory revealed 12 deployment categories, situated within a recurring context involving subjects experiencing personal, emotional, or psychological crisis. These categories can be used to enhance our understanding of negotiator deployment in England and are discussed with reference to the implications for negotiator training and practice.

The Dollar Auction Game: A Laboratory Comparison Between Individuals and Groups

Andrea Morone, Simone Nuzzo & Rocco Caferra
Group Decision and Negotiation 28(1): 79-98 (February 2019)

The aim of this paper is to analyze bidders' behavior, comparing individuals and groups' decisions within the dollar auction framework. This game induces subjects to fall prey into the paradigm of escalation, which is driven by agents' commitment to higher and higher bids. Whenever each participant commits himself to a bid, the lower bidder, motivated by the wish to win as well as to defend his prior investment, finds it in his best interest to place a higher bid to overcome his opponent. The latter mechanism may lead subjects to overbid. We find that the Nash equilibrium of the game is only rarely attained. Second, we detect clean evidence that

groups' decisions are, on average, superior to individuals' decisions. Learning over time is clearly evident, leading individuals to perform nearly as good as groups in the final rounds of the game.

Fair Is Fair, or Is It? Territorial Identity Triggers Influence Ultimatum Game Behavior

Laura Cram, Adam Moore, Victor Olivieri & Felix Suessenbach

Political Psychology 39(6): 1233-1250 (December 2018)

Fairness perception underpins the concept of societal solidarity and is central to regime cohesion, collective identity, and popular legitimacy. The European Union faces challenges on all of these fronts. Perceptions of intergroup (un)fairness and of being “left behind,” for example, provided much of the momentum behind the U.K. Brexit decision. Fairness perception is not, however, an objectively reliable measure. In/outgroup alignments, including race and even football team membership, have been shown experimentally to influence individuals' behavior in response to equally fair/unfair monetary offers, even when this behavior is economically irrational. We develop an experimental task, using an adapted ultimatum game design, to examine how this dynamic plays out in the context of multilevel territorial identity systems, such as the European Union (EU), where no straightforward territorial in/outgroup dynamic pertains. We discuss the implications of our findings for understanding complex social-identity effects in multilevel systems. We ask how our findings on differential perceptions of fairness might be built upon to help understand variable citizen perceptions of, for example, the Brexit process and of the outcomes secured by an individuals' “own side” in the negotiations and more generally in relation to psychological attachment to the EU.

See the Benefit: Adversity Appraisal and Subjective Value in Negotiation

Benjamin Lewis, Mara Olekalns, Philip L. Smith & Brianna Barker Caza

Negotiation Journal 34(4): 379-400 (October 2018)

Negotiation scholars know relatively little about how negotiators can overcome adverse circumstances and end negotiations with an enhanced sense of satisfaction. Using a series of two negotiations simulations, we tested whether cognitive reappraisal influences negotiators' responses to adverse experiences. After completing a negotiation in which they either did – or did not – encounter difficulties, participants identified a challenging moment and wrote about either the benefits or harms they associated with that moment. They then completed a second negotiation and reported their post-negotiation satisfaction using the Subjective Value Inventory. Compared to negotiators who did not encounter adversity, those negotiators who did encounter challenges and engaged in benefit finding reported higher levels of process and relationship satisfaction than those who engaged in harm finding. We also found that negotiators reported greater process and relationship satisfaction under adverse circumstances (hard negotiation or harm-finding appraisal) when their partners used inclusive language (we, ours, us) in the second negotiation.

“I Was Going to Offer \$10,000 But...”: The Effects of Phantom Anchors in Negotiation

Nazli Bhatia & Brian C. Gunia

Organizational Behavior and Human Decision Processes 148: 70-86 (September 2018)

Negotiators commonly attach phantom anchors—retracted and aggressive figures—to their actual and less aggressive offers. For example, a seller might say, “I was going to ask for \$10,000, but I can offer \$8000.” Drawing from research on anchoring, we predict that offer-

makers will economically benefit from offers with phantom anchors. Drawing from research on interpersonal perceptions, we test competing hypotheses indicating that phantom anchors might elicit perceptions of manipulateness or benevolence, with economic implications. Finally, we explore situational conditions that could moderate these perceptions. Five studies show that negotiators using offers with (versus without) phantom anchors receive less aggressive counteroffers and more beneficial agreements in both distributive and integrative negotiations, but also seem more manipulative. Situations portraying the phantom anchor-actual offer combination as a true concession, however, dampen manipulateness perceptions. Overall, the results suggest that phantom anchors represent a powerful yet risky and understudied value-claiming strategy in negotiations.

Too Precise to Pursue: How Precise First Offers Create Barriers-to-Entry in Negotiations and Markets

Alice J. Lee, David D. Loschelder, Martin Schweinsberg, Malia F. Mason & Adam D. Galinsky
Organizational Behavior and Human Decision Processes 148: 87-100 (September 2018)

Prior research shows that precise first offers strongly anchor negotiation outcomes. This precision advantage, however, has been documented only when the parties were already in a negotiation. We introduce the concept of *negotiation entry*, i.e., the decision to enter a negotiation with a particular party. We predict that precise prices create barriers-to-entry, reducing a counterpart's likelihood of entering a negotiation. Six studies ($N = 1580$) and one archival analysis of real estate data ($N = 11,203$) support our barrier-to-entry prediction: Potential negotiators were less likely to enter a negotiation with precise- versus round-offer makers. Using both statistical mediation and experimental-causal-chain analyses, we establish that perceptions of offer-maker inflexibility underlie the precision barrier. Furthermore, we demonstrate that the precision mechanism (inflexibility) is distinct from the extremity mechanism (being offended) that produces barriers-to-entry from extreme first offers. The discussion theoretically integrates research on first-offer precision and extremity by offering the Precision-Extremity Model of First Offers.

Negotiation Engineering: A Quantitative Problem-Solving Approach to Negotiation

Tobias W. Langenegger & Michael Ambühl

Group Decision and Negotiation 27(1): 9-31 (February 2018)

Although they are often complex, negotiations are practical problems that can be solved with the aid of specialized, ad hoc methods. We introduce a problem-solving approach to difficult negotiations inspired by the established solution-oriented discipline of engineering, which we term "Negotiation Engineering". It is based on the reduction of problems to their most formal structures and the heuristic application of quantitative methods for problem solving. We argue that mathematical language in negotiations helps to increase logical accuracy in negotiation analysis and allows for the use of a variety of existing helpful mathematical tools to achieve a negotiation agreement. We demonstrate the practicability and usefulness of this approach using four case studies in the area of international diplomacy in which Negotiation Engineering was applied to achieve negotiation solutions.

How Representatives With a Dovish Constituency Reach Higher Individual and Joint Outcomes in Integrative Negotiations

Hillie Aaldering & Femke S. Ten Velden

Group Processes & Intergroup Relations 21(1): 111-126 (January 2018)

Representative negotiations often take a competitive course due to constituency pressures. However, in multi-issue integrative negotiation settings, using a competitive value-claiming strategy may result in less than optimal outcomes for both parties. In this experiment, we compared the negotiation process and outcomes of representatives with hawkish versus dovish constituencies. Representatives with a dovish constituency engaged in more information exchange and less contentious tactics, resulting in fewer impasses and higher quality agreements. Although representatives with a hawkish constituency claimed more value by placing higher demands, this negatively affected not only their joint, but also their individual outcomes. Overall, results suggest that representatives with a dovish constituency achieve better outcomes, both on an individual and dyadic level.

On the Relative Importance of Individual-Level Characteristics and Dyadic Interaction Effects in Negotiations: Variance Partitioning Evidence From a Twins Study

Hillary Elfenbein, Noah Eisenkraft, Jared Curhan & Lisabeth DiLalla

Journal of Applied Psychology 103(1): 88-96 (January 2018)

Negotiations are inherently dyadic. Negotiators' individual-level characteristics may not only make them perform better or worse in general, but also may make them particularly well- or poorly-suited to negotiate with a particular counterpart. The present research estimates the extent to which performance in a distributive negotiation is affected by (a) the negotiators' individual-level characteristics and (b) dyadic interaction effects that are defined by the unique pairings between the negotiators and their counterparts. Because negotiators cannot interact multiple times without carryover effects, we estimated the relative importance of these factors with a new methodology that used twin siblings as stand-ins for each other. Participants engaged in a series of 1-on-1 negotiations with counterparts while, elsewhere, their cotwins engaged in the same series of 1-on-1 negotiations with the cotwins of those counterparts. In these data, dyadic interaction effects explained more variation in negotiation economic outcomes than did individual differences, whereas individual differences explain more than twice as much of the variation in subjective negotiation outcomes than did dyadic interaction effects. These results suggest dyadic interaction effects represent an understudied area for future research, particularly with regard to the economic outcomes of negotiations. (PsycINFO Database Record (c) 2018 APA, all rights reserved)

From Lab Experiments to Real Negotiations: An Investigation of International Iron Ore Negotiations

Jingjing Yao, Li Ma & Lin Zhang

Negotiation Journal 34(1): 69-87 (January 2018)

Negotiation researchers have conducted a large number of experimental lab studies to identify the factors that affect negotiation outcomes, but it remains unclear whether those results can be generalized to real-world negotiations. To explore this question, the authors analyzed the dynamic international iron ore annual negotiations that took place from 2005 to 2009. The authors found evidence that supports two important findings from previous experiments. Specifically, the authors focused on the impact of negotiators' best alternatives and first offers on

negotiation prices using multiple case study analysis. They found that iron ore prices increased more when the gap between the previous year's negotiated price and the price on the alternative spot market, a public market in which commodities are traded for immediate delivery, was larger, which suggested that buyers were sensitive to the strength of this alternative, supporting the literature on the role of alternatives. The authors also found that the first offer price significantly influenced the final price. Their findings extend two important experimental findings from the negotiation literature to large-scale business negotiations in the real world. [DRM Summer 2018]

To Match or Not to Match? Reactions to Turning Points in Negotiation

Michele Griessmair & Daniel Druckman

Group Decision and Negotiation 27(1): 61-83 (February 2018)

This study examines the impacts of process frames and salience of a turning point on negotiators' responses to a departure during the negotiation process. Results show that individuals negotiating within an integrative-cooperative (as opposed to a distributive-competitive frame) are more likely to interpret the departure as a turning point and match the other's offer. Similarly, results show that making the departure salient by clearly articulating the intent, content, and function of the turning point offer increases negotiators' propensity to embrace the mutually beneficial turning point offer. The findings are discussed in light of negotiators' awareness of events during the negotiation process, their (mis)matching of favorable offers, and relational order theory. [DRM Summer 2018]

Imaginary Alternatives: The Impact of Mental Simulation on Powerless Negotiators

Michael Schaerer, Martin Schweinsberg & Roderick Swaab

Journal of Personality and Social Psychology (March 2018 first online edition)

This research demonstrates that people can act more powerfully without having power. Researchers and practitioners advise people to obtain alternatives in social exchange relationships to enhance their power. However, alternatives are not always readily available, often forcing people to interact without having much power. Building on research suggesting that subjective power and objective outcomes are disconnected and that mental simulation can improve aspirations, the authors show that the mental imagery of a strong alternative can provide some of the benefits that real alternatives provide. The authors tested this hypothesis in one context of social exchange – negotiations – and demonstrate that imagining strong alternatives (vs. not) causes powerless individuals to negotiate more ambitiously. Negotiators reached more profitable agreements when they had a stronger tendency to simulate alternatives or when they were instructed to simulate an alternative. Mediation analyses suggest that mental simulation enhanced performance because it boosted negotiators' aspirations and subsequent first offers, but only when the simulated alternative was attractive. The authors used various negotiation contexts, which allowed identification of circumstances under which mental simulation may not provide any benefits to negotiators: mental simulation no longer helped when negotiators did not make the first offer, when their opponents simultaneously engaged in mental simulation, and even backfired in settings where negotiators' positions were difficult to reconcile (i.e., when negotiators had incompatible preferences). In sum, this research suggests that mental simulation can be a powerful tool for negotiators to improve their outcomes when they are in a disadvantaged position. [DRM Summer 2018]

Do Past Perceptions Shape Future Behaviors? Subjective Value and Behavior Styles in a Multi-Round Negotiation

Wenxue Lu, Wenhui Ren & Wenqian Guo

Negotiation and Conflict Management Research 11(1): 3-28 (January 2018)

This study examines how negotiation subjective value (SV)—relationship SV, process SV, instrumental SV, and self-SV—in a previous round affects negotiation behavior styles—integrating, compromising, obliging, avoiding, and dominating—in the next round through two studies. Study 1 asked the respondents to complete a questionnaire based on a recalled multi-round negotiation, and 169 samples were valid. In Study 2, 205 participants totally filled out the questionnaire after a simulated negotiation. Both results point out as follows: (a) relationship SV positively relates to all five negotiation styles, and its relationship with integrating, compromising, obliging, and avoiding styles is strongest among four branches of SV; (b) process SV is only positively related to integrating; (c) instrumental SV negatively relates to uncooperative styles—avoiding and dominating—and the relationship with dominating style is strongest; (d) self-SV relates to both integrating and dominating which looks like incompatible. We finally discuss the implications, limitations, and future research.

Formation of Procedural Justice Judgments in Legal Negotiation

Rebecca Hollander-Blumoff

Group Decision and Negotiation 26(1): 19-43 (2017)

Research has indicated that procedural justice—fairness of decisionmaking processes—plays an important role in bilateral legal negotiation, encouraging the acceptance of negotiated agreements. Additionally, research has suggested that procedural justice leads to opportunities for increased integrative bargaining. However, procedural justice judgments are typically measured as subjective assessments by disputants. If procedural justice plays an important role in legal dispute negotiation, it is critical to understand how individuals form judgments about fairness of process. The study presented explores antecedents of procedural justice judgments in legal negotiation. Results suggest that although all potential identified antecedent variables—voice, courtesy/respect, trust, and neutrality—play a role in judgments about procedural justice, the primary component is courtesy/respect behavior by the speaker and her partner. Parties share some agreement about the presence of courtesy/respect behavior and trust behavior, and third-party coders can identify behavior that reliably relates to the parties' procedural justice antecedent assessments. Additionally, results indicate that appeals to potential “neutral” benchmarks such as legal authority lead to lower assessments of procedural justice. These findings suggest that courtesy and respect are the primary drivers of negotiators' procedural justice assessments, and that such courtesy/respect behavior is not merely a subjective artifact of the participant but can be observed by a third-party coder. [DRM Summer 2017]

Ups and Downs: Emotional Dynamics in Negotiations and Their Effects on (In)Equity

Michelle Griessmair

Group Decision and Negotiation 26(6): 1061-1090 (November 2017)

Organizational scholars now acknowledge the relevance of emotions in virtually every aspect of organizational life, including negotiations and conflict resolution. Integrating negotiation phase model theory with social functional models of emotion, we test hypotheses about the development of emotions in negotiations and their effects on the degree of economic (in)equity of the counterpart's subsequent offer during the actual negotiation process. By

comparing stalemate dyads with efficient settlement dyads, the study identifies emotional dynamics that characterize successful as opposed to unsuccessful negotiations. Results show that observed differences are primarily the result of impasse dyads spiraling into a negative emotional climate rather than efficient settlement dyads having overall higher levels of positive emotions or increasing them throughout the negotiation process. As predicted by social functional models, the study further confirms that emotions are not only a reaction to the economic (un)fairness of a proposed offer, but their display also influences the payoff (in)equity of the counterpart's subsequent offer. Whether a specific emotional expression increases or decreases the economic fairness of the counterpart's subsequent offer, however, differs across negotiation phases and between dyads that reached an agreement or not. Furthermore, the results show distinct differences between emotions that address individual goal realization in negotiations and emotions that focus on the relational, interpersonal aspect of negotiations, both with regard to their development as well as their function. Taken together, the results shed light on the mechanisms leading to the emergence of conflict spirals.

“I Can't Pay More” Versus “It's Not Worth More”: Divergent Effects of Constraint and Disparagement Rationales in Negotiations

Alice J. Lee & Daniel R. Ames

Organizational Behavior and Human Decision Processes 141: 16-28 (July 2017)

Past research paints a mixed picture of rationales in negotiations. Some findings suggest rationales might help, whereas others suggest they may have little effect or backfire. Here, the authors distinguish between two kinds of rationales buyers commonly employ – constraint rationales (referring to one's own limited resources) and disparagement rationales (involving critiques of the negotiated object) – and demonstrate their divergent effects. Across four studies, the authors examined spontaneous rationales and manipulated rationale content, finding that constraint rationales have more positive effects on instrumental (e.g., counteroffers) and relational (e.g., trust) outcomes than disparagement rationales. Mediation analyses suggest constraint, but not disparagement, rationales are taken by sellers as signaling a buyer's limit. The analysis also demonstrates a role for information, showing that the divergence between these rationales' effects is attenuated when the seller has little information about their object's value. Overall, the results show how and why rationales can help or hurt negotiators. [DRM Winter 2018]

Negotiating Cooperation Under Uncertainty: Communication in Noisy, Indefinitely Repeated Interactions

Fabian Dvorak & Sebastian Fehrler

Available at SSRN: <https://ssrn.com/abstract=2986445> (June 2017)

Case studies of cartels and recent theory suggest that repeated communication is key for stable cooperation in environments where signals about others' actions are noisy. However, empirically the exact role of communication is not well understood. We study cooperation under different monitoring and communication structures in the lab. Under all monitoring structures - perfect, imperfect public, and imperfect private - communication boosts efficiency. However, under imperfect monitoring, where actions can only be observed with noise, cooperation is only stable when subjects can communicate before every round of the game. Beyond improving coordination, communication increases efficiency by making subjects' play more lenient and

forgiving. We further find clear evidence for the exchange of private information - the central role ascribed to communication in recent theoretical contributions.

When Do People Initiate a Negotiation? The Role of Discrepancy, Satisfaction, and Ability Beliefs

Lulia A. M. Reif & Felix C. Brodbeck

Negotiation and Conflict Management Research 10(1): 46-66 (February 2017)

Negotiation research increasingly pays attention to the beginning of negotiations. Building on a theory of the initiation of negotiation we investigated when and why people consider initiating negotiations. Results from one field study and two scenario experiments show that a negative discrepancy between an actual state and a desired state increased the intention to initiate a negotiation and promoted real initiation behavior. This effect was mediated by the subjective perception of this discrepancy and feelings of dissatisfaction. Expectancy considerations in the form of ability to initiate negotiations and implicit beliefs about negotiation ability moderated this serial mediation effect: high initiation ability and incremental negotiation beliefs facilitated the decision to negotiate whereas low initiation ability and entity negotiation beliefs inhibited negotiation initiations. In the present work, we offer a first empirical test of the theory of initiation of negotiation.

The Dynamics of Coalition Formation – A Multilateral Bargaining Experiment With Free Timing of Moves

James Tremewan & Christoph Vanberg

Journal of Economic Behavior & Organization 130: 33-46 (October 2016)

We experimentally investigate behavior in a finitely repeated coalition formation game played in continuous time. Subjects interact in groups of three, bargaining over the distribution of payments which occur at regular time intervals. During a given interval, payments occur if and only if a majority is in agreement about their allocation. Aside from these rules, we purposefully impose little structure on the bargaining process. We investigate the frequency and stability of different types of agreements, as well as transitions between them. Two-thirds of payments involve divisions where one player receives nothing, almost half of which are equal splits of the entire surplus between two players. The most stable division is the three-way equal split. Transitions between agreements are frequent and are generally consistent with myopic payoff maximization, in the sense that subjects do not accept short-term losses. We also find that transitions between coalitions are not Markovian. In particular, players more often forgo short-term gains in order to remain in a coalition if it has proven stable in the past.

The Hidden Persuader: The Role of the Advisor in Negotiations and Group Decision Making—Perspectives from the European Union

Jeswald W. Salacuse

Group Decision and Negotiation 25(3): 459-480 (May 2016)

Theoretical models of negotiation and group decision making often overlook or at least do not fully account for the important role played by persons who advise negotiators and participants in group decision making. Sight unseen, advisors are often “hidden persuaders,” important but unrecognized sources of influence on the negotiation dynamic. This article explores the roles and methods of advisors in the negotiation process, drawing on survey research conducted in 2013 among approximately seventy advisors at the European Union

Council of Ministers. Defining advice as “. . . a communication from one person (the advisor) to another (the client) for the purpose of helping that second person determine a course of action for solving a particular problem. . .”, the author considers the nature of advice and the range of relationships that may exist between advisors and their clients. He argues that advising is much more than the mere transmittal of information from advisor to negotiator and that for advice to be effective a relationship must exist between the two parties. The author identifies three models of the advisor–negotiator relationship. Model I is THE ADVISOR AS DIRECTOR, wherein the advisor tends to take control of the negotiating process, directing the negotiator in actions that the negotiator should take to achieve success at the negotiation. Model II is THE ADVISOR AS SERVANT in which the advisor merely responds to the demands of the client for help and guidance in the negotiation. Model III is THE ADVISOR AS PARTNER, wherein advisor and negotiator jointly manage the advising process and together take co-ownership of the problem to be solved. The author then explores the factors that lead advisors and negotiators to adopt each of these three models, the various advising styles that advisors adopt, and the differing effects on the negotiation process that these elements may have, drawing on historical examples as well as survey data from the EU Council of Ministers. He concludes by offering advice about advising to three important professional groups—scholars, negotiators, and advisors—on ways to carry out their respective functions more effectively.

The Effect of Advice on Negotiations: How Advisors Influence What Negotiators Do

Jeswald W. Salacuse

Negotiation Journal 32(2): 103–125 (April 2016)

Studies of negotiations often overlook, or at least do not fully account for, the important role played by people who advise negotiators. Often deliberately hidden from view, advisors have important but unrecognized influence on the negotiation dynamic. In this article, I explore the roles and methods of advisors in the negotiation process, drawing on role theory and survey research conducted in 2013 among approximately seventy advisors at the European Union Council of Ministers. I define advice as “a communication from one person (the advisor) to another (the client) for the purpose of helping that second person determine a course of action for solving a particular problem” and consider the nature of this advice and the range of relationships that may exist between advisors and their clients. Advising is much more than the mere transmittal of information from advisor to negotiator and that for advice to be effective a relationship must exist between the two parties. I then identify three models of the advisor–negotiator relationship. The first is the advisor as director, wherein the advisor tends to take control of the negotiating process, directing the negotiator toward actions that she or he should take to achieve success at the negotiation. The second is the advisor as servant, in which the advisor merely responds to the demands of the client for help and guidance in the negotiation. And the third is the advisor as partner, wherein advisor and negotiator jointly manage the process and solve the problem together. Finally, I explore the factors that lead advisors and negotiators to adopt each of these three models, the various advising styles that advisors use, and the differing effects on the negotiation process that these elements may have, drawing on historical examples as well as survey data from the EU Council of Ministers. [DRM Winter 2017]

An Empirical Analysis of the Use of Enforceable Undertakings by the Australian Securities and Investments Commission between 1 July 1998 and 31 December 2015

Helen Louise Bird, George Gilligan, Andrew Godwin, Jasper Hedges & Ian Ramsey
CIFR Paper No. 106/2016 (April 2016). Available at SSRN: <https://ssrn.com/abstract=2766134>

This paper analyses enforceable undertakings or formally negotiated settlement agreements between the Australian Securities and Investments Commission (ASIC) and regulated firms and individuals. It reports the findings of an empirical study of 414 enforceable undertakings accepted by ASIC from 1 July 1998 (when ASIC was given the power to accept enforceable undertakings) to 31 December 2015. The first of its kind in size and scope, the study provides detailed insights into ASIC's deployment of enforceable undertakings to address misconduct issues occurring within its regulatory remit. The study profiles the characteristics of parties giving enforceable undertakings, their misconduct and the undertakings given to address that misconduct. Proprietary companies and directors are shown to be the most common groups of companies and individuals giving enforceable undertakings. Activities involving financial services are the most common subject of enforceable undertakings and non-compliance with financial services laws, the most common form of misconduct addressed by enforceable undertakings. The study finds evidence of the regulator's strategic use of enforceable undertakings to bring about systemic changes in the financial services industry, especially in relation to the quality of advice provided by the financial planning sector. This is achieved by regulating compliance from within financial planning and wealth management firms and accepting voluntary financial service activity bans from individual advisors and planners engaging in misconduct. This strategy explains the concentration of legal compliance review undertakings and cease and desist undertakings in ASIC accepted enforceable undertakings.

Competition, Transparency, and Reciprocity: A Comparative Study of Auctions and Negotiations

Gregory E. Kersten, Tomasz Wachowicz & Margaret Kersten
Group Decision and Negotiation 25(4): 693-722 (March 2016)

The paper discusses experiments aimed at comparing multi-attribute reverse auctions and multi-bilateral negotiations for procuring goods with multiple attributes. Both exchange mechanisms involve a buyer purchasing from one of several sellers. Two types of negotiations are considered: verifiable and non-verifiable. They differ in the sellers' knowledge of the current best offer on the table; in verifiable negotiations the best offer is automatically shown to every participant, which makes it similar to auctions. Online auctions and negotiation systems were used to study auction and negotiation processes, and the mechanisms' efficiency. The results show that buyers did best using auctions, followed by non-verifiable and verifiable negotiations. We also looked into the differences between auctions and negotiations in terms of their duration, sellers' and buyers' involvement, and efficiency and conclude that the behavior of buyers and sellers cannot be explained solely on the grounds of traditional economics. It can, however, be explained on the grounds of social exchange theory and behavioral economics. In multi-bilateral negotiations competition and social behavior coexist. When transparency is introduced the social effect becomes stronger, weakening the impact of competition.

To Commit or Not to Commit? An Experimental Investigation of Pre-Commitments in Bargaining Situations With Asymmetric Information

Sonke Hoffmann, Benedikt Mihm & Joachim Weimann

Journal of Public Economics 121: 95–105 (2015)

In a recent paper Konrad and Thum (2014) present a model that shows that unilateral pre-commitment reduces the likelihood of agreement in bilateral negotiations over the provision of a public good when parties have private information over their contribution costs. We test the model in a laboratory experiment paying particular attention to how behavioral motivations other than payoff-maximization affect the strength of the model's result. We find that the result is no longer statistically significant when we allow for non-payoff-maximizing behavior at each stage of the game. Introducing communication has an interesting effect as it influences different forms of non-payoff-maximizing behavior asymmetrically and leads to the model's result again becoming significant. All in all, we find strong experimental support for Konrad and Thum's model even though we observe considerable amounts of non-payoff-maximizing behavior that is not accounted for in the original model.

Bounded Benefits of Representative Cooperativeness in Intergroup Negotiations

Özüm Sayg, Lindred L. Greer, Gerben A. Van Kleef & Carsten K. W. De Dreu

Group Decision and Negotiation 24(6): 993-1014 (November 2015)

Although cooperation among representatives in intergroup negotiation can improve intergroup relations, when cooperation in such competitive settings is attributed to strategic goals of the outgroup, it may actually harm intergroup relations. Here we investigate the possibility that representative's characteristics (prototypicality and competence) determine whether an outgroup representative's cooperation (as opposed to competition) improves or harms intergroup relations. Study 1 showed that a cooperative outgroup representative (compared to a competitive representative) produced more favorable perceptions of the entire outgroup, and triggered constructive behavioral tendencies towards the outgroup when the outgroup representative was seen as prototypical, yet DECREASED such constructive tendencies when the representative was seen as peripheral. Study 2 showed that the outgroup representative's cooperation triggered constructive behavioral tendencies only when the representative appeared as low in competence; when high in competence, the positive effect of representative cooperativeness on trust and constructive behavioral tendencies was mitigated. Implications for representative negotiation and intergroup relations are discussed.

The Benefits of Dominance Complementarity in Negotiations

Scott Wiltermuth, Larissa Z. Tiedens & Margaret Neale

Negotiation and Conflict Management Research 8(3): 194–209 (August 2015)

We investigated whether dominance complementarity can lead people to reach mutually beneficial outcomes in negotiations by increasing the likelihood that they will successfully coordinate the exchange of information. We suggest that negotiators who differ in how dominantly they behave in the negotiation exchange information effectively because they fulfill different roles in the negotiation process. Study 1 demonstrated that dominant negotiators generally assert their desires, while relatively submissive negotiators generally ask questions to find ways to satisfy their own desires without escalating conflict with the dominant negotiators. Studies 2 and 3 demonstrated that participants were best able to discover integrative agreements when one negotiator was instructed to behave dominantly and the other negotiator, submissively.

Improved information exchange mediated the relationship between dominance complementarity and improved joint outcomes in Study 3.

Effects of Attachment Anxiety and Avoidance on Negotiation Propensity and Performance

Julia B. Bear & Dikla Segel-Karpas

Negotiation and Conflict Management Research 8(3): 153–173 (August 2015)

Attachment theory has received scant consideration in the negotiation literature. We examined the effects of attachment anxiety and avoidance on negotiation propensity and performance in two studies. In terms of negotiation propensity (Study 1), attachment anxiety had significant, deleterious effects, though contrary to our predictions, attachment avoidance did not have significant effects. However, there was an interaction such that individuals high on attachment avoidance had a greater propensity to negotiate with an insecurely attached counterpart compared to a secure counterpart. In addition, attachment orientation influenced negotiation performance and information sharing (Study 2), but the effects depended upon role in the negotiation, with stronger effects for attachment avoidance as opposed to attachment anxiety. Theoretical and practical implications for research on negotiation and attachment theory are discussed.

Unraveling Business Negotiations Using Practitioner Data

Ray Fells, Helen Rogers & Ursula F. Ott

Negotiation and Conflict Management Research 8(2): 119-136 (May 2015)

Although negotiations are a core business activity, there is a lack of information about what actually occurs during a business negotiation. This study addresses this issue through an international survey of managers focusing on actual negotiations. The 294 respondents reported on what actions they took as they sought to achieve an agreement, including how information was exchanged and how they looked for new solutions and managed concession making. The analysis suggests a pragmatic approach to negotiation, whereby information is not withheld, but neither is it freely given. Solutions emerge from discussion of priorities and commonalities rather than through more formal creative processes. The underlying script of negotiation appears to draw more on competitive than overtly collaborative tactics, suggesting that business negotiators are cautious co-operators. Further research avenues include investigating the pressures and context that impact upon negotiators' decision-making and closer examination of interactions between negotiation tasks en route to an agreement. [DRM Winter 2016]

Communication in Multilateral Bargaining

Marina Agranov & Chloe Tergiman

Journal of Public Economics 118: 75-85 (October 2014)

One of the most robust phenomena in the experimental literature on multilateral bargaining is the failure of proposers to extract equilibrium rents. However, all previous experiments have overlooked the fact that outside the lab committee members are allowed to – and do – engage in sometimes intense communication processes prior to voting on a proposal. We conduct an experimental test of the Baron–Ferejohn model in which we allow committee members to engage in unrestricted cheap-talk communication before a proposal is submitted. We find that proposers extract a significantly higher share of resources when communication is allowed. Communication increases proposer power through two channels. First, it mitigates the

uncertainty surrounding the amount a coalition member is willing to accept. Second, it allows potential coalition members to compete for a place in the coalition by lowering this stated price.

Modeling Negotiation Using “Narrative Grammar”: Exploring the Evolution of Meaning in a Simulated Negotiation

Sara Cobb, David Laws & Carlos Sluzki

Group Decision and Negotiation 23(5): 1047-1065 (July 2014)

Negotiation research, drawing on rational choice theory, provides a wealth of findings about how people negotiate successfully, as well as descriptions of some of the many pitfalls associated to negotiation failures. Building on narrative theory, this paper attempts to expand the theoretical base of negotiation in an effort to address the meaning making processes that structure negotiation. Drawing on Greimas’s (Diacritics 7(1):23–40, 1977) notion of “narrative grammar,” we argue that negotiation is a process that relies on a relatively limited set of narrative syntactical forms that structure the negotiation process. We conduct a simulation of a negotiation game and ask participants to storyboard their experience of the negotiation process. The use and evolution of narratives are identified via the storyboards, as well as participants’ accounts of those storyboards. While the number of participants in the simulation is very small, limiting the nature of the claims that can be made, our analysis suggests regularities in the use of narrative syntax as well as in patterns of escalation and transformation. The study offers a new method for the analysis of negotiation, i.e., narrative syntax, aimed at understanding the dynamics of narrative processes in negotiation.

Competitive Representative Negotiations Worsen Intergroup Relations

Özüm Saygı, Lindred L. Greer, Gerben A. van Kleef & Carsten K. W. De Dreu

Group Processes and Intergroup Relations 17(2): 143-160 (March 2014)

Representative negotiation affords a unique opportunity to regulate intergroup competition and conflict. Although past research has identified factors that shape representative negotiations, little is known about how such interpersonal representative negotiations influence broader intergroup relations. Here we investigate how the representative negotiation process can affect intergroup relations, irrespective of negotiation outcomes. In Experiment 1, competitive (as opposed to cooperative or neutral) communication by the outgroup representative decreased satisfaction with the outcome and increased outgroup derogation. In Experiment 2, the timing of the competitive behavior of the outgroup representative was shown to affect ensuing intergroup relations, such that early rather than late competition led to higher outcome satisfaction because of reduced outcome expectations, but also decreased trust in and perceived closeness of the outgroup. Together, these findings show that competitive behavior, especially early rather than late in the representative negotiation process increases outcome satisfaction, but hurts intergroup relations, regardless of the actual negotiation outcome.

The Long-Term Impact of Negotiation Training and Teaching Implications

Cherine G. Soliman, Arnaud Stimec & Nicolas Antheaume

Conflict Resolution Quarterly 32(2): 129-153 (Winter 2014)

This article presents the subset of research on the enhancement of cooperation in negotiation with a focus on the intraorganizational context. It studies the long-term effect of negotiation training and its implications for the teaching of negotiation. We chose a qualitative approach over two cycles of action research. Cycle 1 was performed in a training course with

sixty-four managers over six months. Cycle 2, using the focus group method, was carried out with eleven individuals selected from cycle 1 population over twelve months. This experiment enabled us to propose a dynamic typology of negotiator styles, which led us to suggest a number of recommendations to improve the teaching of negotiation.

Language Style Matching, Engagement, and Impasse in Negotiations

Molly E. Ireland & Marlene D. Henderson

Negotiation and Conflict Management Research 7(1): 1-16 (January 2014)

Humans and animals alike are known to mirror the behavior of both allies and opponents. However, existing models of behavior matching focus primarily on its prosocial functions. The current study explores whether both prosocial and adversarial sides of behavior matching can be found at different stages of an egoistic negotiation. In negotiations conducted over instant messenger, 64 dyads attempted to reach an agreement on four issues within 20 minutes while focusing solely on personal gain. We measured behavior matching with the language style matching (LSM) metric, which quantifies function word (e.g., pronouns, articles) similarity between partners. Although pairs with higher LSM throughout negotiations were more socially engaged, they were also less focused on the task and more likely to reach an impasse during the negotiation. Furthermore, early but not late style matching predicted more positive, socially attuned interactions. Implications for negotiation and mimicry research are discussed.

On the Role of Personality, Cognitive Ability, and Emotional Intelligence in Predicting Negotiation Outcomes: A Meta-Analysis

Sudeep Sharma, William Bottom & Hillary Anger Elfenbein

Organizational Psychology Review 3(4): 293-336 (2013)

The authors conducted a comprehensive meta-analysis of negotiation studies to investigate the role of individual differences in predicting negotiation outcomes. They found a substantial role for a wide range of individual difference variables. Cognitive ability, emotional intelligence, and numerous personality traits demonstrated significant relationships with multiple negotiation outcomes. These findings revealed that negotiators with higher levels of cognitive ability achieve greater individual economic value, joint economic value, and psychological subjective value. Results also showed that emotionally intelligent negotiators are likely to generate enhanced subjective psychological outcomes, such as satisfaction, liking, trust, and intentions to work again with the other party in the future. Except conscientiousness, each of the other “Big Five” personality traits (extraversion, agreeableness, neuroticism, and openness to experience) showed associations with at least one outcome measure. These findings imply that individual differences are valid predictors of negotiator effectiveness. The authors suggest, therefore, that negotiators should seek an understanding of their own and counterparts’ characteristics so that they can select themselves into negotiation settings in which they are likely to succeed. In addition, superiors should not overlook individual differences when assigning negotiation roles to subordinates. [DRM Winter 2014]

The Polarizing Effect of Arousal on Negotiation

Ashley D. Brown & Jared R. Curhan

Psychological Science 24(10): 1928-1935 (October 2013)

In this research, we examined the impact of physiological arousal on negotiation outcomes. Conventional wisdom and the prescriptive literature suggest that arousal should be

minimized given its negative effect on negotiations, whereas prior research on misattribution of arousal suggests that arousal might polarize outcomes, either negatively or positively. In two experiments, we manipulated arousal and measured its effect on subjective and objective negotiation outcomes. Our results support the polarization effect. When participants had negative prior attitudes toward negotiation, arousal had a detrimental effect on outcomes, whereas when participants had positive prior attitudes toward negotiation, arousal had a beneficial effect on outcomes. These effects occurred because of the construal of arousal as negative or positive affect, respectively. Our findings have important implications not only for negotiation, but also for research on misattribution of arousal, which previously has focused on the target of evaluation, in contrast to the current research, which focused on the critical role of the perceiver.

Terrorist Success in Hostage-Taking Missions: 1978-2010

Charlinda Santifort & Todd Sandler

Public Choice 156(1-2): 125-137 (July 2013)

This article investigates the determinants of logistical and negotiation successes in hostage-taking incidents using an expanded dataset that runs from 1978 to 2010. Unlike an earlier study, the current study has a rich set of negotiation variables in addition to political, geographical, and organizational variables associated with the perpetrators or targets of the attacks. The 33 years of data permit a split into two subperiods: 1978-1987 and 1988-2010, before and after the rise of religious fundamentalist terrorist groups. Logistical success depends on resource and target vulnerability proxies, while negotiation success hinges on bargaining variables. Among many novel findings, democracy significantly hampers logistical success throughout the entire period. Kidnappings, tropical climates, and high elevations foster logistical success. Religious fundamentalist terrorists' logistical advantage during 1978-1987 was lost during 1988-2010. Abducting protected persons, making demands on the host country, and staging incidents in a democracy limit negotiation success for the terrorists. If terrorists moderate or replace one or more demands, the likelihood of negotiation success for the terrorists goes up.

Why Hawks Fly Higher Than Doves: Intragroup Conflict in Representative Negotiation

Hillie Aaldering & Carsten K. W. De Dreu

Group Processes & Intergroup Relations 15: 713-724 (November 2012)

Intergroup conflicts are often regulated by negotiating group representatives, who are influenced by constituent pressures. We examined how within-constituent disagreement influences representative negotiations. In a 2×2 experiment, the majority of constituents was either hawkish or dovish vis-à-vis the out-group, and the minority had either low or high status. After being exposed to constituent voice, representatives negotiated in a multi-issue task with integrative potential. Results showed that representatives reached more integrative agreements when the constituent majority was dovish rather than hawkish, but only when the hawkish minority had low rather than high status; when the hawkish minority had high status, representatives reached suboptimal agreements equal to those reached when the constituent majority was hawkish. Additional results showed that under these circumstances, representatives perceived the cooperativeness of their constituency as highest and also had the most trust that the constituency would approve of the agreement. Implications are discussed for theory on intergroup relations, (representative) negotiation, and conflict resolution.

When and Why Individuals Obey Contracts: Experimental Evidence of Consent, Compliance, Promise, and Performance

Zev Eigen

Journal of Legal Studies 41(1): 67-93 (January 2012)

Negotiations often continue beyond the time when parties reach an agreement, when disputes arise about the enforceability of contract provisions. Sometimes, in spite of parties' negotiations, only one side unilaterally drafts the contract purporting to govern the parties' ongoing relationship. This article reports the results of an online experiment that suggests that individuals are more likely to comply with contracts they participated in negotiating (even marginally) than with ones they did not, and that preconsent notice of a contract term increases the likelihood of compliance with that term. The article also reports that a moral framing of a post-agreement attempt to compel performance of an undesirable task/contract provision was more effective than other frames. A positivistic legal threat was significantly less effective than other framings, and marginally less so than a generic request to continue performing the task in the absence of any contract. [DRM Summer 2013]

NEGOTIATION: OPENING OFFERS, ANCHORING AND FRAMING

Open to Offers, But Resisting Requests: How the Framing of Anchors Affects Motivation and Negotiated Outcomes

Johann M. Majer, Roman Trötschel, Adam D. Galinsky & David D. Loschelder

Journal of Personality and Social Psychology 119(3): 582-599 (September 2020)

Abundant research has established that first proposals can anchor negotiations and lead to a first-mover advantage. The current research developed and tested a motivated anchor adjustment hypothesis that integrates the literature on framing and anchoring and highlights how anchoring in negotiations differs in significant ways from standard decision-making contexts. The research begins with the premise that first proposals can be framed as either an offer of resources (e.g., I am offering my A for your B) that highlights gains versus a request for resources (e.g., I am requesting your B for my A) that highlights losses to a responder. The authors propose that this framing would affect the concession aversion of responders and ultimately the negotiated outcomes. They predicted that when a first proposal is framed as an offer, the well documented anchoring and first-mover advantage effect would emerge because offers do not create high levels of concession aversion. In contrast, because requests highlight what the responder has to give up, the authors predicted that opening requests would produce concession aversion and eliminate and even reverse the first-mover advantage. Across five experiments, the classic first-mover advantage in negotiations was moderated by the framing of proposals because anchor framing affected concession aversion. The studies highlight how motivational forces (i.e., concession aversion) play an important role in producing anchoring effects, which has been predominantly viewed through a purely cognitive lens. Overall, the findings highlight when and how motivational processes play a key role in both judgmental heuristics and mixed-motive decision-making. [DRM Winter 2021]

The “Future is Now” Bias: Anchoring and (Insufficient) Adjustment When Predicting the Future from the Present

Julian Givi & Jeff Galak

Journal of Experimental Social Psychology 84 (September 2019)

Available at SSRN: <https://ssrn.com/abstract=3409506> or <http://dx.doi.org/10.2139/ssrn.3409506>

In this study, the authors document a novel forecasting bias, which they term the “future is now” bias. Specifically, the authors show that people tend to believe that the future will mirror the present, even when such a belief is unfounded. That is, people overestimate the chances that whatever is happening now will happen in the future, even when the (known) explicit probabilities of future outcomes contradict such a belief. This appears to be driven by an anchoring and (insufficient) adjustment process, whereby initial beliefs about the future are heavily influenced by the present circumstances, and then subsequent beliefs are not sufficiently adjusted once the probabilities of future outcomes are learned. Across nine studies employing more than 3,800 participants, the authors demonstrate the future is now bias in a variety of forecasting contexts, show that it manifests in incentive compatible settings, and provide evidence in support of an anchoring and (insufficient) adjustment mechanistic account. [DRM Spring 2020]

An Alternating-Offers Model of Multilateral Negotiations

Charles J. Thomas

Journal of Economic Behavior & Organization 149: 269-293 (May 2018)

I develop a model of the multilateral negotiations that are frequently observed when one party wishes to trade with one of several others offering potentially different amounts of surplus to be split. The model’s intuitively sensible equilibrium outcomes differ qualitatively from those in other models of these negotiations. I demonstrate one application of the model that provides empirical predictions about how the choice of transacting via negotiations or auctions is affected by factors including the number of trading partners, uncertainty when making the choice, and costly participation in the trading process. More generally the model provides a tractable foundation for analyzing strategic problems in settings featuring multilateral negotiations, including investment, product design, mergers, and hold-up.

I Expected More from You: The Influence of Close Relationships and Perspective Taking on Negotiation Offers

Jaime Ramirez-Fernandez, Jimena Y. Ramirez-Marin & Lourdes Munduate

Group Decision and Negotiation 27(1): 85-105 (February 2018)

Three experimental studies show that interpersonal relationships influence the expectations of negotiators at the negotiation table. That is, negotiators expect more generous negotiation offers from close others (Study 1), and when expectations are not met, negative emotions arise, resulting in negative economic and relational outcomes (Study 2). Finally, a boundary condition for the effect of interpersonal relationships on negotiation expectations is shown: perspective taking leads the parties to expect less from friends than from acquaintances (Study 3). The findings suggest that perspective taking helps negotiators reach agreement in relationships. The article concludes with implications for practice and future research directions.

Anchoring in Financial Decision-Making: Evidence from Jeopardy!

Michael Jetter & Jay K. Walker

Journal of Economic Behavior & Organization 141: 164-176 (September 2017)

This paper analyzes 12,596 DAILY DOUBLE wagering decisions of 6064 contestants in the US game show JEOPARDY!. We exploit a situation in which a player has to, unexpectedly, wager on responding correctly to an unknown clue (known as a DAILY DOUBLE clue). We find evidence consistent with the hypothesis of contestants anchoring heavily on the initial dollar value of a clue in wagering. This positive relationship remains statistically significant at the one percent level after controlling for other characteristics that may independently affect wagering decisions, such as scores, clue categories, time trends, individual JEOPARDY! experience, and player-fixed effects. Exploiting within-player variation only, raising the anchoring amount by \$100 translates to an increase of \$29 in the wager. An alternative explanation of underlying strategic considerations appears unlikely and results are consistent throughout a number of robustness checks. Overall, these findings suggest that anchoring can play a substantial role in financial decision-making under pressure.

Round Off the Bargaining: The Effects of Offer Roundness on Willingness to Accept

Dengfeng Yan & Jorge Pena-Marín

Journal of Consumer Research 44(2): 381-395 (August 2017)

This research shows that making a precise (vs. round) offer in a negotiation may lead to diverging outcomes. On the one hand, past literature has demonstrated a precision advantage wherein offer precision reduces the amount by which offer recipients counter. On the other hand, building on the notion that round numbers symbolize completion and previous findings that individuals tend to set goals at round numbers, we hypothesize a roundness advantage wherein offer roundness increases the bargainer's willingness to accept an offer. Five studies provide convergent evidence for our proposition and reconcile the present results with previous findings. We found that participants receiving a round offer are more (less) likely to accept (counter) than those who receive comparable precise offers. However, if they counter, participants in the precise condition counter by a smaller amount than those in the round condition. Furthermore, in agreement with our explanation, we find that the roundness advantage is more likely to manifest when participants subscribe to the association between round numbers and the feeling of completion.

Motivated Use of Numerical Anchors for Judgments Relevant to the Self

Samantha Joel, Stephanie S. Spielmann & Geoff MacDonald

Personality and Social Psychology Bulletin 43(7): 972-985 (July 2017)

The anchoring effect has been replicated so extensively that it is generally thought to be ubiquitous. However, anchoring has primarily been tested in domains in which people are motivated to reach accurate conclusions rather than biased conclusions. Is the anchoring effect robust even when the anchors are threatening? In three studies, participants made a series of probability judgments about their own futures paired with either optimistic anchors (e.g., "Do you think that the chances that your current relationship will last a lifetime are more or less than 95%?"), pessimistic anchors (e.g., "more or less than 10%?"), or no anchors. A fourth study experimentally manipulated motivation to ignore the anchor with financial incentives. Across studies, anchors that implied high probabilities of unwanted events occurring were ineffective.

Together, these studies suggest that anchoring has an important boundary condition: Personally threatening anchors are ignored as a result of motivated reasoning processes.

How and Why Precise Anchors Distinctly Affect Anchor Recipients and Senders

David D. Loschelder, Malte Frieseb & Roman Trötschel

Journal of Experimental Social Psychology 70: 164-176 (May 2017)

A negotiation commonly starts with one party sending and the other party receiving a first offer. This first offer anchors recipients and yields higher profits to the sender. Recent research has shown that precise anchors (e.g., \$28.75), those featuring fewer trailing zeros, are more potent than round anchors (such as \$30.00). The present studies extend this literature in two ways: First, prior research has exclusively focused on anchor recipients while ignoring the sender. Here, the authors examine precision effects for (1) recipients, (2) senders, and (3) both recipients and senders in a two-party negotiation. Also, while prior research disagreed about the theoretical mechanism behind the precision effect (with some positing that scale-granularity leads decision-makers to adjust in smaller steps on a finer-grained mental scale, and others suggesting that attribution of competence makes people ascribe more competence to someone who opens with a precise offer), these studies add to the literature by simultaneously examining these competing explanations. Multiple mediation analyses across three experiments consistently suggest that the beneficial impact of precise anchors on recipients is due to a social attribution-of-competence, whereas the detrimental impact on anchor-senders is due to a cognitive scale-granularity process. In all, the present findings show (a) that senders and recipients are distinctly affected by anchor precision, and (b) that these opposing effects are due to distinct psychological processes. [DRM Summer 2017]

Making the Most of First-Offer Advantage: Pre-Offer Conversation and Negotiation Outcomes

Najung Kim & Hun-Joon Park

Negotiation Journal 33(2): 153–170 (April 2017)

Why do some negotiators benefit from making the first offer during negotiations while others do not? This study explores the contents of conversations that take place before negotiators make their first offers in order to learn more about the differences between ultimately successful first offers that benefit from anchoring effects and ultimately unsuccessful ones in which negotiators apparently derive no benefit from making the first offer. In-depth qualitative analyses of the conversations that role players engaged in prior to their first offers were conducted in simulated negotiation exercises. Their analysis identified five different conversational tactics that negotiators employed in one-on-one negotiations to gain power in the negotiation, or what they call here “power conversation tactics.” Their findings suggest that the negotiation outcome (i.e., net value) was related to how the negotiators employed and combined these tactics during the pre-offer conversation. Based on these findings, they conceptualized four types of power-gaining/power-losing pre-offer conversation scenarios and explored the link between negotiation outcomes and each of these types of pre-offer conversations. This study further develops the literature on power dynamics and conversations in negotiations as well as the literature on the anchoring effect of a first offer. [DRM Summer 2017]

The Too-Much-Precision Effect: When and Why Precise Anchors Backfire With Experts

David D. Loschelder, Malte Friese, Michael Schaerer & Adam D. Galinsky

Psychological Science 27(2): 1573-1587 (2016)

Past research has suggested a fundamental principle of price precision: The more precise an opening price, the more it anchors counteroffers. The present research challenges this principle by demonstrating a too-much-precision effect. Five experiments (involving 1,320 experts and amateurs in real-estate, jewelry, car, and human-resources negotiations) showed that increasing the precision of an opening offer had positive linear effects for amateurs but inverted-U-shaped effects for experts. Anchor precision backfired because experts saw too much precision as reflecting a lack of competence. This negative effect held unless first movers gave rationales that boosted experts' perception of their competence. Statistical mediation and experimental moderation established the critical role of competence attributions. This research disentangles competing theoretical accounts (attribution of competence vs. scale granularity) and qualifies two putative truisms: that anchors affect experts and amateurs equally, and that more precise prices are linearly more potent anchors. The results refine current theoretical understanding of anchoring and have significant implications for everyday life. [DRM Summer 2017]

The Information-Anchoring Model of First Offers: When Moving First Helps Versus Hurts Negotiators

David Loschelde, Roman Trotschel, Roderick Swaab, Malte Friese & Adam Galinsky

Journal of Applied Psychology 101(7): 995-1012 (July 2016)

Does making the first offer increase or impair a negotiator's outcomes? Past research has found evidence supporting both claims. To reconcile these contradictory findings, we developed and tested an integrative model—the Information-Anchoring Model of First Offers. The model predicts when and why making the first offer helps versus hurts. We suggest that first offers have 2 effects. First, they serve as anchors that pull final settlements toward the initial first-offer value; this anchor function often produces a first-mover advantage. Second, first offers can convey information on the senders' priorities, which makes the sender vulnerable to exploitation and increases the risk of a first-mover disadvantage. To test this model, 3 experiments manipulated the information that senders communicated in their first offer. When senders did not reveal their priorities, the first-mover advantage was replicated. However, when first offers revealed senders' priorities explicitly, implicitly, or both, a first-mover disadvantage emerged. Negotiators' social value orientation moderated this effect: A first-mover disadvantage occurred when senders faced proself recipients who exploited priority information, but not with prosocial recipients. Moderated mediation analyses supported the model assumptions: Proself recipients used their integrative insight to feign priorities in their low-priority issues and thereby claimed more individual value than senders. The final discussion reviews theoretical and applied implications of the Information-Anchoring Model of First Offers.

Anchors Weigh More Than Power: Why Absolute Powerlessness Liberates Negotiators to Achieve Better Outcomes

Michael Schaerer, Roderick I. Swaab & Adam D. Galinsky

Psychological Science 26(2): 170-181 (February 2015)

Negotiation scholars and practitioners generally assume that negotiating with any alternative is better than having no alternative at all. After all, alternatives are a critical source of

power and allow negotiators to walk away from the table. However, the authors argue that alternatives not only provide power but also serve as salient anchors that can weigh down negotiators' first offers and lead to worse deals, especially when the alternatives are unattractive. Five experiments show that although negotiators without alternatives felt *less* powerful, they actually made *higher* first offers and achieved *better* deals than those with a relatively unattractive alternative. Thus, having no alternative to fall back on and being completely powerless can be a liberating experience. However, when negotiators with weak alternatives were instructed to focus on their target price (i.e. their goal), they were as effective as those without an alternative. [DRM Summer 2015]

Beyond Offers and Counteroffers: The Impact of Interaction Time and Negotiator Job Satisfaction on Subjective Outcomes in Negotiation

Shu-Cheng Steve Chi, Raymond A. Friedman & Huei-Lin Shih
Negotiation Journal 29(1): 39–60 (2014)

In this study, we examined real-world sales negotiations by collecting data in collaboration with a large Taiwanese eyeglasses company. We found, as has been established previously, that higher first offers predict higher company profits and that the impact of high opening offers can be muted by greater customer awareness of prices at other stores. When we investigated a more qualitative outcome, customers' perceptions of service quality, a different set of predictors emerged. Our results indicate that salespeople who spent more time introducing the products and services were perceived by the customers as providing higher service quality, but this effect only occurred for those salespeople who reported high levels of job satisfaction. Also, price reduction by salespeople did not improve customer satisfaction. Our results indicate that customer satisfaction does not require negotiated price concessions, but rather depends on extensive interaction with salespeople who are happy in their work. This is the first study to show that negotiator job satisfaction can affect important negotiation outcomes.

The Offer Framing Effect: Choosing Single Versus Bundled Offerings Affects Variety Seeking

Mauricio Mittelman, Eduardo B. Andrade, Amitava Chattopadhyay & C. Miguel Brendl
Journal of Consumer Research 41(4): 953-964 (December 2014)

Choices of multiple items can be framed as a selection of single offerings (e.g., a choice of two individual candy bars) or of bundled offerings (e.g., a choice of a bundle of two candy bars). Four experiments provide strong evidence that consumers seek more variety when choosing from single than from bundled offerings. The offer framing effect shows that the mechanics of choosing—the ways consumers go about making choices of multiple items—affect variety seeking in a systematic manner. The data also suggest that the effect is largely due to the single offering frame. Theoretical and managerial implications are discussed.

Lawyer and Nonlawyer Susceptibility to Framing Effects in Out-Of-Court Civil Litigation Settlement

Ian K. Belton, Mary Thomson & Mandeep K. Dhami
Journal of Empirical Legal Studies 11(3): 578-600 (September 2014)

Settling a legal dispute out of court is typically a good result for both parties. However, many disputes do not settle: the presence of cognitive biases, such as those observed through framing manipulations, is thought to be one of the many reasons for settlement failure. The

present study used quantitative and qualitative data to compare the impact of a gain- or loss-framed hypothetical civil litigation scenario on settlement decisions made by lawyers and other nonlawyer professionals. A significant effect of framing was found for both groups. As predicted, both nonlawyers and lawyers were much more likely to settle their claim in the gain scenario than in the loss scenario. This finding was supported by the qualitative data: risk-averse comments were more frequent in the gain frame whereas risk-seeking statements were more common in the loss frame. There was also evidence that lawyers may be less affected by framing than nonlawyers, although a smaller difference was observed than in previous studies. In addition, lawyers were more likely than nonlawyers to consider the expected financial value of the litigation in making their decision. We discuss the implications of these results and suggest avenues for future research.

Too Good to Be True: Suspicion-Based Rejections of High Offers

Wolfgang Steinel, Ilja van Beest & Eric van Dijk

Group Processes & Intergroup Relations 17(5): 682-698 (September 2014)

Should negotiators increase the value they offer to their counterparts, if they are eager to get to "yes"? It is a common belief that high offers are more readily accepted than low offers. In contrast to this general notion, the authors show that there is a limit to the beneficial effects of making high offers and that becoming too generous may backfire. This paradoxical finding is observed when offers are made in an ambiguous situation. In three studies, participants became suspicious about high offers (i.e., offers that were beneficial to themselves), but not about low or equal offers (i.e., offers that distributed the value equally benefitted the proposer) by a proposer who had an information advantage. Due to suspicion, participants rejected high offers more often than equal offers. The finding that low and equal offers are met with less suspicion than high offers suggests that people trust the validity of information provided by negotiators who make seemingly self-serving or equal offers. An interesting implication is that negotiators may in fact be held hostage by the perception that they are primarily motivated by self-interest. Making more valuable offers does not necessarily increase the chance of getting to yes. [DRM Winter 2015]

The Remarkable Robustness of the First-Offer Effect: Across Culture, Power, and Issues

Brian C. Gunia, Roderick I. Swaab, Niro Sivanathan & Adam D. Galinsky

Personality and Social Psychology Bulletin 39(12): 1547 –1558 (December 2013)

In any negotiation or dispute, someone has to make the first offer. Studies of the first-offer effect demonstrate that the person who goes first achieves better final outcomes than the person who does not. Final prices are higher, for example, when sellers, not buyers, move first. The evidence for the first-offer effect, however, derives primarily from studies of Westerners who are negotiating over a single issue and do not have systematic power differences – contexts that may amplify the effect. Thus the authors explored the effect across cultures, among negotiators varying in power, and in negotiations involving multiple as well as single issues. Their first two studies showed that the first-offer effect remains remarkably robust across cultures and multi-issue negotiations. Their final two studies, however, demonstrated that low-power negotiators benefit from making the first offer across single- and multi-issue negotiations. By studying multi-issue negotiations with various types of negotiable issues, Studies 2 and 4 also revealed that first offers exert their influence through the distributive (win-lose) issues, not the issues on which the parties have some common ground. Overall, these results demonstrate that negotiators and disputants can benefit from moving first in many situations, especially those that

feature distributive issues. Mediators and arbitrators, in turn, may wish to anticipate and guard against the potentially biasing effect of the first offer. [DRM Summer 2014]

Precise Offers are Potent Anchors: Conciliatory Counteroffers and Attributions of Knowledge in Negotiations

Malia Mason, Alice Lee, Elizabeth Wiley & Daniel Ames

Journal of Experimental Social Psychology 49(4): 759-763 (July 2013)

People habitually use round prices as first offers in negotiations. We test whether the specificity with which a first offer is expressed has appreciable effects on first-offer recipients' perceptions and strategic choices. Studies 1a-d establish that first-offer recipients make greater counteroffer adjustments to round versus precise offers. Study 2 demonstrates this phenomenon in an interactive, strategic exchange. Study 3 shows that negotiators who make precise first offers are assumed to be more informed than negotiators who make round first offers and that this perception partially mediates the effect of first-offer precision on recipient adjustments. First-offer recipients appear to make assumptions about their counterpart's language choices and infer meanings that are not explicitly conveyed. Precise numerical expressions imply a greater level of knowledge than round expressions and are therefore assumed by recipients to be more informative of the true value of the good being negotiated.

A Homeowner's Dilemma: Anchoring in Residential Real Estate Transactions

Grace Bucchianeri & Julia Minson

Journal of Economic Behavior & Organization 89: 76-92 (May 2013)

We examine whether, and how, listing strategies impact sale prices in residential home sales. Literatures in housing economics, negotiations, and auctions offer diverse predictions around this question. On the one hand, housing studies typically treat home prices as an objective function of property and neighborhood characteristics. Yet, the large and robust literature on anchoring effects (Tversky & Kahneman, 1974) suggests a positive relationship between listing prices and sale prices. Finally, evidence from the auctions literature suggests the opposite pattern through herding behaviors. We analyzed more than 14,000 transactions, taking into account observable property heterogeneity, geographical location and timing of the sales. We find that higher starting prices are indeed associated with higher selling prices, consistent with anchoring. For the average home in our sample, over-pricing between 10 to 20 percent leads to an increase in the sale price of \$117 to \$163. This effect is particularly strong in areas with higher rates of mortgage foreclosure or serious delinquency. Additional analyses show that our results are unlikely to be driven by seller motivations or unobserved home qualities. We contrast our findings with recommendations and private beliefs of real estate agents, who provide services and advice for about 90 percent of home sales in the US.

NEGOTIATION: GENDER, RACE & CULTURE

Negotiation Contexts: How and Why They Shape Women's and Men's Decision to Negotiate

Julia A. M. Reif, Fiona A. Kunz, Katharina G. Kugler & Felix C. Brodbeck

Negotiation and Conflict Management Research 12(4): 322-342 (November 2019)

In the substantial body of research on gender differences in the initiation of negotiation, the findings consistently favor men (Kugler et al., 2018). We propose that this research itself is

gendered because negotiation research has traditionally focused on masculine negotiation contexts. In the current study, we replicate the gender effect in initiating negotiations (favoring men) and provide an empirically based selection of “masculine,” “feminine,” and “neutral” negotiation contexts, which can be used for future negotiation research. We show that the negotiation context shapes gender differences such that in specific social contexts, women tend to have even *higher* initiation intentions compared to men. Negotiation contexts generally seem to differ regarding their affordance to negotiate. We offer a possible explanation for gender effects on initiation intentions by uncovering the mediating role of expectancy considerations across all negotiation contexts, especially in masculine contexts, and instrumentality considerations in specific masculine and feminine contexts.

The Lemon Car Game Across Cultures: Evidence of Relational Rationality

Gert Jan Hofstede, Catholijn M. Jonker, Tim Verwaart & Neil Yorke-Smith
Group Decision and Negotiation 28(5): 849-877 (October 2019)

In cross-cultural business negotiation, culture is known to influence negotiation processes. As a lens to study this effect, the authors deployed the Lemon Car Game, an online negotiation game developed for this purpose by Gert Jan Hofstede, Tim Verwaart, and Catholijn Jonker. In this article they report the results from the game, obtained from more than 800 players from more than 70 countries. The authors employ several complementary analyses in a mixed-methods approach. Their findings show that to make sense of the players’ actions during negotiation, economic rationality falls short. A cross-culture, individual-level analysis of actions and stated intentions also fails to yield a coherent picture. Within countries, however, actions and intentions do cohere, as shown by an ecological country-level factor analysis, from which three factors emerge for the sellers at country level: trustworthiness, opportunism, and fairness. The authors conclude from these findings that, in this game, players are driven by what the authors call relational rationality: they are rational from the perspective of the social world in which they live, with interpersonal relationships weighing heavily. Relational rationality changes players’ perspective of economic rationality, and thus their observed behavior in negotiation. Based on this evidence, the authors extrapolate that relational rationality significantly influences negotiation processes in all cultures. [DRM Spring 2020]

Bargaining While Black: The Role of Race in Salary Negotiations

Morela Hernandez, Derek R. Avery, Sabrina D. Volpone & Cheryl R. Kaiser
Journal of Applied Psychology 104(4): 581-592 (2019)

The influence of race in negotiations has remained relatively underexplored. Across three studies, the authors theorize and find that black job seekers are expected to negotiate less than their white counterparts and are penalized in negotiations with lower salary outcomes when this expectation is violated; especially when they negotiate with an evaluator who is more racially biased (i.e., higher in social dominance orientation). Specifically, on the basis of the prescriptive stereotype held by those higher in racial bias – that black (as compared to white) negotiators deserve lower salaries – the authors predicted that black negotiators who behave in counter-stereotypical ways encounter greater resistance and more unfavorable outcomes from more biased evaluators. The authors tested this argument: In Study 1, the authors found that more biased evaluators expect black job seekers to negotiate less as compared to white job seekers. When black negotiators violate those expectations, evaluators award them lower starting salaries (Study 2), which appears to occur because evaluators become more resistant to making

concessions to black than to white job seekers (Study 3). Collectively, the authors' findings demonstrate that racially biased perceptual distortions can be used to justify the provision of smaller monetary awards for black job seekers in negotiations. [DRM Spring 2020]

How Power Distance Interacts with Culture and Status to Explain Intra- and Intercultural Negotiation Behaviors: A Multilevel Analysis

Meina Liu

Negotiation and Conflict Management Research 12(3): 192-212 (August 2019)

This study examines how culture and status qualify the effects of power distance (PD) values on bargaining tactics in intra- and intercultural negotiations, as well as Chinese and American negotiators' behavioral difference in these contexts. Data were collected from 34 intercultural dyads, 32 American dyads, and 35 Chinese dyads that completed job offer negotiations. Results showed substantial contextual variations in the actor and partner effects of PD values. Whereas Chinese employees' PD values positively influenced American managers' priority information exchange, American employees' PD values had a negative partner effect on it. Whereas Chinese employees' PD values negatively influenced Chinese managers' relationship building, American employees' PD values had a positive partner effect on it. American managers and employees both used significantly fewer integrative tactics and more distributive tactics in intercultural than intracultural negotiations, but neither Chinese managers nor Chinese employees exhibited behavioral difference. Theoretical and practical implications of the study are discussed

Gender Gaps in Salary Negotiations: Salary Requests and Starting Salaries in the Field

Jenny Säve-Söderbergh

Journal of Economic Behavior & Organization 161: 35-51 (May 2019)

This paper provides new evidence of gender gaps in negotiation behavior and in subsequent outcomes from a unique large sample of high-stakes salary negotiations between recent college graduates and prospective employers (derived from surveys covering 12,000 individual negotiations in Sweden between 1999 and 2012). Although females state salary requests more often than males do, they ask for lower salaries and are also offered lower starting salaries for the same request. These gender gaps are small yet noteworthy considering the homogeneity of the sample. Notably, the study highlights the importance of negotiation behavior as accounting for females stating lower salary requests, a factor that largely explains the gender pay gap in subsequent starting salaries, especially at the upper end of the pay distribution. [DRM Spring 2020]

Negotiating the Gender Wage Gap

Katrien Stevens & Stephen Whelan

Industrial Relations 58(2): 141-188 (April 2019)

There is some evidence that gender differences exist in the propensity to negotiate and outcomes from negotiation. We examine the propensity to negotiate over pay with the employer, the wage outcomes resulting from negotiation, and the impact on the gender wage gap. We find evidence that females are less likely to have the opportunity to negotiate over pay. However, conditional on the opportunity to negotiate, they are no less likely to actually negotiate. The analysis does not provide strong evidence that women fare worse than men if negotiation occurs.

Deep Pockets and Poor Results: The Effect of Wealth Cues on First Offers in Negotiation

Yossi Maaravi & Boaz Hameiri

Group Decision and Negotiation 28(1): 43-62 (February 2019)

In this article, we examined the effect of external cues on first offers in negotiation. Specifically, we present the results of three experiments and an internal meta-analysis through which we investigated the relations between buyers' external characteristics, which serve as cues of economic wealth, including their clothes, cars and country of origin, and sellers' first offers in negotiation. We found that when external cues indicated wealth, counteroffers were less beneficial to those communicating the cues, resulting in higher first offers by their counterparts. We suggest, and provide empirical evidence, that these effects will emerge as long as the wealth signal is salient and perceived as an indication for the counterpart's 'deep pockets', or ability to pay.

Do Women Ask?

Benjamin Artz, Amanda H. Goodall & Andrew J. Oswald

Industrial Relations 57(4): 611-636 (October 2018)

Females typically earn less than males. The reasons are not fully understood. This paper re-examines the idea that women "don't ask," which potentially assigns part of the responsibility for the gender pay gap onto female behavior. Such an account cannot readily be tested with standard datasets. This paper is the first to be able to use matched employer–employee data in which workers are questioned about their asking behavior. It concludes that males and females ask equally often for promotions and raises. The paper's empirical results suggest, however, that while women do now ask they "don't get."

Women Ask For Less (only from men): Evidence From Bargaining in the Field

Iñigo Hernandez-Arenaza & Nagore Iriberry

Journal of Economic Behavior & Organization 152: 192-214 (August 2018)

Data from a TV show provide the opportunity to study gender differences and gender interaction effects in bargaining with sizable stakes. A *proposer* and a *responder*, who is selected by the proposer, bargain over a fixed pie. Proposers are in a stronger bargaining position because they have a positive outside option and information on the size of the pie, while responders have neither. The matching between male proposers and female responders stands as the most favorable for proposers. Women as responders demand less *only* from male proposers, which explains the difference in earnings.

“Putting Gender on the Table”: Understanding Reactions to Women Who Discuss Gender Inequality

Moran Anisman-Razin, Ronit Kark & Tamar Saguy,

Group Processes & Intergroup Relations 21(5): 690-706 (August 2018)

Even though gender inequality remains an important challenge across societies, many believe it to be long gone (Marken, 2016). Thus, it is essential to publicly address issues related to gender inequality as a first step towards advancing change in this domain. However, those who address gender inequality may encounter personal costs. In the current research, we examined reactions to women who “put gender on the table.” In Study 1 (N = 202), men who were exposed to a woman who raised the issue of gender inequality (vs. age inequality or a neutral topic), had more negative attitudes towards both her and gender equality. In Study 2, (N

= 233), women high on feminist identification were more positive toward a woman who discussed gender inequality (vs. other topics), whereas women low on feminist identification were more negative toward both her and the issue. Theoretical and practical implications are discussed.

Men and the Middle: Gender Differences in Dyadic Compromise Effects

Hristina Nikolova & Cait Lamberton

Journal of Consumer Research 43(3): 355-371 (2017)

Individual decision-makers show robust tendencies toward choosing the middle option in a choice set (a bias known as the compromise effect). Here, the authors examine the choice of compromise options in joint dyadic decisions. Findings reveal that the compromise effect emerges any time there is a female in a decision-making pair; when women are in a pair, either with another woman or with a man, people choose jointly basically as they would alone – middle alternatives take the lion's share of choice. Surprisingly, when men make decisions together, there's no compromise effect; men deciding together tend to stick to extreme, all-or-nothing options, far more than do men deciding with other women or men deciding alone. Why does this happen? Research has suggested that masculinity is considered to be precarious, necessitating constant proof and validation in social interactions. Thus, when men make decisions together, they feel driven to take actions that are maximally different from feminine norms, which prioritize moderation, and maximally similar to masculine norms, which prioritize extremity. So when men make decisions together, they signal their masculinity by choosing things that are extreme, which attenuates the compromise effect in male decision-making pairs. It is not impossible, however, for men making joint decisions to shift toward compromise alternatives. If male pairs are given the opportunity to signal their masculinity a priori (for example, by publicly selecting a highly-male-stereotyped magazine), their tendency to avoid compromise in an immediately subsequent decision dissolves. Then, they are likely to choose the middle option in the same way as do others – and in the same way they would if deciding alone. [DRM Summer 2017]

What “Blindness” to Gender Differences Helps Women See and Do: Implications For Confidence, Agency, and Action in Male-Dominated Environments

Ashley E. Martin & Katherine W. Phillips

Organizational Behavior and Human Decision Processes 142: 28-44 (September 2017)

The ways in which we discuss gender (embracing vs. downplaying difference) has implications for women's workplace confidence and behavior, especially in male-dominated environments and positions of power. In five total studies (N = 1453), across a variety of samples, the authors found that gender-blindness—the belief that gender differences should be downplayed—is a more adaptive strategy for increasing female workplace confidence than gender-awareness—the belief that gender differences should be celebrated. In addition to increasing confidence, gender-blindness was related to actions necessary for reducing gender disparities (e.g., risk-taking, negotiation). The authors found that perceived gender differences in agency (i.e., assertiveness, independence) accounts for gender differences in workplace confidence, especially in male-dominated environments (e.g., business school) and positions of power (managerial positions). Finally, the authors found that gender-blindness either lessened or had no effect on men's confidence, demonstrating the unique positive effect of gender-blindness

on women's confidence. Together, this research highlights the potential for downplaying differences, instead of emphasizing them, to combat the confidence gap. [DRM Winter 2018]

Trumping Norms: Lab Evidence on Aggressive Communication Before and After the 2016 US Presidential Election

Jennie Huang & Corinne Low

American Economic Review 107(5): 120-124 (May 2017)

This paper uses a simple lab experiment designed to test for gender differences in negotiation to show that the 2016 election of Donald Trump had a profound impact on individual behavior in the lab. Huang and Low (2017) use a "Battle of the Sexes" ("BoS") game with unstructured communication to show that men are less likely to use tough, but effective, negotiation tactics when paired with female partners, and more likely to offer the higher payoff to female partners. We repeat this experiment after the election, and found two important differences: 1) Individuals are less cooperative in general, more likely to use adversarial strategies, and less likely to reach an agreement, and 2) This is particularly driven by men acting more aggressively toward women.

Spillover Bias in Diversity Judgment

David P. Daniels, Margaret A. Neale & Lindred L. Greer

Organizational Behavior and Human Decision Processes 139: 92-105 (March 2017)

Diversity research has long assumed that individuals' perceptions of diversity are accurate, consistent with normative theories of judgments in economics and decision theory. We challenge this assumption. In six experiments, we show that when there is more diversity along one dimension (e.g., race, clothing color), people also perceive more diversity on other dimensions (e.g., gender, skill) even when this cannot reflect reality. This spillover bias in diversity judgment leads to predictable errors in decision making with economic incentives for accuracy, and it alters support for affirmative action policies in organizations. Spillover bias in diversity judgment may help explain why managerial decisions about groups often appear to be suboptimal and why diversity scholars have found inconsistent associations between objective diversity and team outcomes.

What's a Masculine Negotiator? What's a Feminine Negotiator? It Depends on the Cultural and Situational Contexts

Wen Shan, Joshua Keller & Lynn Imai

Negotiation and Conflict Management Research 9(1): 22-43 (February 2016)

In two studies, the authors examine how people in the United States and China categorize specific negotiation goals and behaviors as masculine or feminine in different negotiation contexts. The authors found that while American participants categorized competitive goals and behaviors as masculine and cooperative ones as feminine across business-to-consumer (B2C) and business-to-business (B2B) negotiation contexts, Chinese participants' patterns depended on the negotiation context. In B2C contexts, Chinese participants categorized competitive goals and behaviors as feminine and cooperative ones as masculine; in B2B contexts, they made further distinctions, categorizing competitive goals and behaviors that are socially inappropriate as feminine, but competitive ones that are socially appropriate, as well as cooperative goals and behaviors, as masculine. The authors caution that for both male and female negotiators and for

those negotiating with them, an oversimplified view of being masculine and feminine without considering culture and context may lead to inappropriate stereotyping. [DRM Summer 2016]

Formal Training Does Not Always Eliminate Gender-Based Negotiation Differences

Charles B. Craver

Cardozo J. Conflict Resolution 18: 1-21 (Fall 2016)

When men and women conduct bargaining interactions without any formal training, males tend to obtain more advantageous results than their female cohorts. They tend to establish more elevated goals, and do a better job of placing themselves in the shoes of their counterparts. They feel more comfortable than women dealing with the overtly competitive nature of legal negotiations. When individuals take formal Legal Negotiation courses that explore the relevant factors and the traits possessed by proficient bargainers, gender-based differences are usually diminished and the results achieved by men and women tend to become statistically insignificant. On the other hand, on rare occasions, if male class members continue to be highly competitive throughout the semester, and their female counterparts do not learn how to effectively counter such behavior, male results may still be more beneficial than the results achieved by their female cohorts. To avoid such unequal negotiation deals, we must carefully focus on the relevant male and female traits, and teach both male and female students what they should do to generate beneficial results for the parties they represent.

Numbers Are Gendered: The Role of Numerical Precision

Dengfeng Yan

Journal of Consumer Research 43(2): 303-316 (August 2016)

Marketing communications often contain numerical information that can be expressed more or less precisely. Earlier research has identified a number of ways in which consumers respond differently to precise versus round numbers. The current research attempts to enrich this literature by introducing a new theoretical perspective. Drawing on recent findings in the numerical cognition literature, this work proposes that individuals project gendered meanings to precise versus round numbers, with precise numbers seen as more masculine relative to round ones. Seven studies provided convergent evidence for this proposition and demonstrated its marketing implications. Studies 1, 2, and 3, employing various approaches, show that participants do subscribe to this precision-masculinity intuition, at both implicit and explicit levels. Study 4 suppresses this effect by priming participants with examples where precision is connected to femininity. Building on these findings, subsequent studies demonstrate that marketing communications using precise (round) numbers lead to more favorable evaluations when the products or attributes are positioned as masculine (feminine).

How Many Cents on the Dollar? Women and Men in Product Markets

Tamar Kricheli-Katz & Tali Regev

Science Advances 2(2): e1500599 (February 2016)

Gender inequality in contemporary U.S. society is a well-documented, widespread phenomenon. However, little is known about gender disparities in product markets. This study is the first to use actual market data to study the behavior of women and men as sellers and buyers and differences in market outcomes. We analyze a unique and large data set containing all eBay auction transactions of most popular products by private sellers between the years 2009 and 2012. Women sellers received a smaller number of bids and lower final prices than did equally

qualified men sellers of the exact same product. On average, women sellers received about 80 cents for every dollar a man received when selling the identical new product and 97 cents when selling the same used product. These findings held even after controlling for the sentiments that appear in the text of the sellers' listings. Nonetheless, it is worth noting that this gap varied by the type of the product being sold. As a policy, eBay does not reveal the gender of users. We attribute the price differences to the ability of buyers to discern the gender of the seller. We present results from an experiment that shows that people accurately identify the gender of sellers on the basis of typical information provided in postings. We supplement the analysis with an additional off-eBay experiment showing that, in a controlled setting, people are willing to pay less for money-value gift cards when they are sold by women rather than men.

A Meta-Analysis on Gender Differences in Negotiation Outcomes and Their Moderators

Jens Mazei, Joachim Huffmeier, Philipp Alexander Freund, Alice Stuhlmacher, Lena Bilke & Guido Hertel

Psychological Bulletin 141(1): 85-104 (2015)

This meta-analysis investigates gender differences in economic negotiation outcomes. As suggested by role congruity theory, we assume that the behaviors that increase economic negotiation outcomes are more congruent with the male as compared with the female gender role, thereby presenting challenges for women's negotiation performance and reducing their outcomes. Importantly, this main effect is predicted to be moderated by person-based, situation-based, and task-based influences that make effective negotiation behavior more congruent with the female gender role, which should in turn reduce or even reverse gender differences in negotiation outcomes. Using a multilevel modeling approach, this meta-analysis includes 123 effect sizes (overall $N = 10,888$, including undergraduate and graduate students as well as businesspeople). Studies were included when they enabled the calculation of an effect size reflecting gender differences in achieved economic negotiation outcomes. As predicted, men achieved better economic outcomes than women on average, but gender differences strongly depended on the context: Moderator analysis revealed that gender differences favoring men were reduced when negotiators had negotiation experience, when they received information about the bargaining range, and when they negotiated on behalf of another individual. Moreover, gender differences were reversed under conditions of the lowest predicted role incongruity for women. In conclusion, gender differences in negotiations are contextually bound and can be subject to change. Future research is needed that investigates the underlying mechanisms of new moderators revealed in the current research (e.g., experience). Implications for theoretical explanations of gender differences in negotiation outcomes, for gender inequalities in the workplace, and for future research are discussed.

From “Good day” to “Sign here”: Norms Shaping Negotiations Within a Face Culture

Mendiola Teng-Calleja, Marshaley J. Baquiano & Cristina J. Montiel

Negotiation and Conflict Management Research 8(4): 228-242 (November 2015)

Using discourse analysis, we examine how culture shapes the dynamics and outcome of wage negotiations. With an intracultural lens, we look at how two opposing groups that share one overarching culture maximize group gains and achieve a bargaining agreement. We analysed audio recordings of collective bargaining meetings between labor and management negotiators of a multinational beverage company in the Philippines. Consistent with the claims of previous studies, negotiation between labor and management within this culture reflected low trust. Joint

gains were however achieved through FACE dynamics that thwarted the impact of low trust bargaining. Specifically, our discursive analysis shows how utterances contain justifications, demands, rejections and threats. However, such apparently contentious talks are embedded in local language that conveys respect for authority, mixed with efforts to maintain harmony. These reflections of FACE culture in the bargaining process help shift the negotiations from a contentious to a collaborative and successful problem-solving process. [DRM Winter 2016]

Confucian Ideal Personality and Chinese Business Negotiation Styles: An Indigenous Perspective

Zhenzhong Ma, Weiwei Dong, Jie Wu, Dapeng Liang & Xiaopeng Yin
Group Decision and Negotiation 24(3): 383-400 (May 2015)

China has become one of the most important economies in the global market, but negotiating with the Chinese remains a great challenge for most Westerners. This study is to help better understand Chinese business negotiation styles with an indigenous perspective by exploring the impact of Confucian ideal personality on business negotiation process in China. This study tests the effects of three key components of Confucian ideal personality—benevolence (Ren), wisdom (Zhi), and courage (Yong) on Chinese negotiation behaviors and further on negotiation outcomes with 200 business students in a simulated negotiation exercise. The results support the significant effects of benevolence and courage on Chinese business negotiation styles but wisdom is not found to have any significant impact in China. The overall pattern of the results substantiates the strong influence of Confucianism on Chinese negotiation styles, and provides an important supplement to negotiation theories developed in the West.

When an Intercultural Business Negotiation Fails: Comparing the Emotions and Behavioural Tendencies of Individualistic and Collectivistic Negotiators

Harri T. Luomala, Rajesh Kumar, J. D. Singh & Matti Jaakkola
Group Decision and Negotiation 24(3): 537-561 (May 2015)

This study explores the linkages between culture, emotion, and behavioural tendencies in unsuccessful intercultural business negotiations. A set of novel research hypotheses are developed and are then tested using a negotiation scenario involving 106 Finnish and 114 Indian study participants. Three key findings emerge from the statistical tests conducted. First, the article presents new empirical evidence suggesting that qualitatively different emotions (dejection vs. agitation) are experienced after a failed intercultural business negotiation by individualists and collectivists. Dejection related emotions (e.g., sadness, disappointment) represent the absence of a positive outcome, whereas agitation related emotions (e.g., tension, fear, anxiety) represent the presence of a negative outcome (Higgins, 1987). Individualists are more likely to experience dejection related emotions whereas the collectivists are likely to experience agitation related emotions. This prediction was confirmed for the individualistic Finns but did not receive corresponding support among the collectivistic Indians. Second, the article reveals the existence of the relationship between perspective-taking ability and emotional volatility in the context of failed intercultural business negotiation involving individualists and collectivists. Collectivists were expected to show greater perspective ability relative to their individualistic counterparts and this prediction was confirmed. Third, the study finds partial support for the idea that different types of negative emotions can lead to the same behavioural tendency (approach) among individualists and collectivists when intercultural business negotiation fails. Agitation related emotions lead the Indians to approach their counterparts

whereas dejection related emotions lead the Finns to approach their counterparts. The paper concludes by outlining a set of theoretical and managerial implications and suggestions for further research. Individualistic and collectivistic negotiators must be conscious of how emotions might impact their behavior and be mindful of any steps they take. It would also be helpful to behave in ways that do not trigger negative emotions among their counterparts. [DRM Summer 2015]

A Meta-Analysis of Gender Stereotypes and Bias in Experimental Simulations of Employment Decision Making

Amanda J. Koch, Susan D. D’Mello & Paul R. Sackett

Journal of Applied Psychology 100(1): 128-161 (January 2015)

Gender bias continues to be a concern in many work settings, leading researchers to identify factors that influence workplace decisions. In this study we examine several of these factors, using an organizing framework of sex distribution within jobs (including male- and female-dominated jobs as well as sex-balanced, or integrated, jobs). We conducted random effects meta-analyses including 136 independent effect sizes from experimental studies (N = 22,348) and examined the effects of decision-maker gender, amount and content of information available to the decision maker, type of evaluation, and motivation to make careful decisions on gender bias in organizational decisions. We also examined study characteristics such as type of participant, publication year, and study design. Our findings revealed that men were preferred for male-dominated jobs (i.e., gender-role congruity bias), whereas no strong preference for either gender was found for female-dominated or integrated jobs. Second, male raters exhibited greater gender-role congruity bias than did female raters for male-dominated jobs. Third, gender-role congruity bias did not consistently decrease when decision makers were provided with additional information about those they were rating, but gender-role congruity bias was reduced when information clearly indicated high competence of those being evaluated. Fourth, gender-role congruity bias did not differ between decisions that required comparisons among ratees and decisions made about individual ratees. Fifth, decision makers who were motivated to make careful decisions tended to exhibit less gender-role congruity bias for male-dominated jobs. Finally, for male-dominated jobs, experienced professionals showed smaller gender-role congruity bias than did undergraduates or working adults. (PsycINFO Database Record (c) 2015 APA, all rights reserved)

Gender and the Emotional Experience of Relationship Conflict: The Differential Effectiveness of Avoidant Conflict Management

Julia B. Bear, Laurie R. Weingart & Gergana Todorova

Negotiation and Conflict Management Research 7: 213–231 (2014)

Conflict research has shown that managing relationship conflict via avoidance is beneficial for team performance, but it is unclear whether avoidant conflict management benefits individuals on an affective level. Drawing on theories of gender roles, we proposed that gender is an important factor that influences whether avoidant conflict management mitigates the negative affective effects of relationship conflict. In a field study of a healthcare organization, we found that relationship conflict resulted in negative emotions, which, in turn, were positively associated with emotional exhaustion two months later. Avoidant conflict management attenuated the relationship between negative emotions engendered by relationship conflict and emotional exhaustion, but this effect depended on gender. Among men, the extent to which they used an

avoidant conflict management style mitigated the association between negative emotions and emotional exhaustion, whereas among women, avoidant conflict management did not attenuate this relationship. Findings are discussed in terms of theoretical and practical implications.

Not Competent Enough to Know the Difference? Gender Stereotypes About Women's Ease of Being Mised Predict Negotiator Deception

Laura J. Kray, Jessica A. Kennedy & Alex B. Van Zant

Organizational Behavior and Human Decision Processes 125(2): 61-72 (2014)

We examined whether gender differences in the perceived ease of being misled predict the likelihood of being deceived in distributive negotiations. Study 1 (N = 131) confirmed that female negotiators are perceived as more easily misled than male negotiators. This perception corresponded with perceptions of women's relatively low competence. Study 2 (N = 328) manipulated negotiator gender, competence and warmth and found that being perceived as easily misled via low competence affected expectations about the negotiating process, including less deception scrutiny among easily misled negotiators and lower ethical standards among their negotiating counterparts. This pattern held true regardless of buyer and seller gender. Study 3 (N = 298) examined whether patterns of deception in face-to-face negotiations were consistent with this gender stereotype. As expected, negotiators deceived women more so than men, thus leading women into more deals under false pretenses than men.

Physical Attractiveness and Cooperation in a Prisoner's Dilemma Game

Mizuho Shinada & Toshio Yamagishi

Evolution And Human Behavior 35(6): 451-455 (November 2014)

The modulating role of age on the relationship between physical attractiveness and cooperativeness in a prisoner's dilemma game (PDG) was investigated. Previous studies have shown that physical attractiveness is negatively related to cooperative choices among young men but not young women. Following the argument that the negative relationship between physical attractiveness and cooperation is a product of short-term mating strategies among attractive men, we predicted that this relationship is unique to young men and absent among women and older men. We tested this hypothesis with 175 participants (aged 22–69 years). The results showed that physical attractiveness was negatively related to cooperative behavior among young men but not among women or older men. We further observed that the negative relationship between physical attractiveness and cooperation among young men was particularly strong when attractiveness was judged by women.

The Rules of Implicit Evaluation by Race, Religion and Age

Jordan R. Axt, Charles R. Ebersole & Brian A. Nosek

Psychological Science 25(9): 1804-1815 (September 2014)

The social world is stratified. Social hierarchies are known but often disavowed as anachronisms or unjust. Nonetheless, hierarchies may persist in social memory. In three studies (total N > 200,000), we found evidence of social hierarchies in implicit evaluation by race, religion, and age. Participants implicitly evaluated their own racial group most positively and the remaining racial groups in accordance with the following hierarchy: Whites > Asians > Blacks > Hispanics. Similarly, participants implicitly evaluated their own religion most positively and the remaining religions in accordance with the following hierarchy: Christianity > Judaism > Hinduism or Buddhism > Islam. In a final study, participants of all ages implicitly evaluated age

groups following this rule: children > young adults > middle-age adults > older adults. These results suggest that the rules of social evaluation are pervasively embedded in culture and mind.

A Counterpart's Feminine Face Signals Cooperativeness and Encourages Negotiators to Compete

Eric Gladstone & Kathleen O'Connor

Organizational Behavior and Human Decision Processes 125: 18-25 (September 2014)

Traditionally, research demonstrates that compared to men, women suffer at the negotiation table. What if, either on top of or instead of, gender differences, facial femininity has a strong impact on negotiator outcomes? To examine this question, the authors' first study shows that when choosing a counterpart (someone to compete against), participants preferred others with more, versus less, feminine faces. However, this trend reversed itself when participants were asked to select an agent – someone who competes on their behalf. Here, people preferred the less feminine-faced individual. The reversal of the first choice preference suggests that people associate facial femininity with likely cooperativeness and less aggressiveness. In a second study, the authors designed a computer program that simulated “another participant” in the lab – participants in the study believed this person to be real. Just prior to beginning the negotiation exercise, participants viewed a picture of their ostensible counterpart – either a more feminine-faced male or female, or a less feminine-faced male or female. By the end of the negotiation exercise, participants had demanded more from the more feminine-faced counterparts – both male and female alike. Importantly, this effect held and was stronger than the effect for the counterpart's gender. According to the authors, while more feminine-faced others are believed to be less aggressive and more cooperative, this is not necessarily a bad thing. First, feminine-faced others are chosen more often as exchange partners. And more exchange opportunity equals more opportunity to profit. Second, if ostensible others believe more feminine-faced counterparts are more cooperative, and less aggressive, why not take advantage of these pre-existing beliefs? Come out of the gate swinging, recommend the authors, behaving in an unanticipated manner. [DRM Winter 2015]

Women and Negotiation: Permission to Skip The Chit-Chat?

Alexandra A. Mislin, Brooke A. Shaughnessy, Tanja Hentschel & Claudia Peus

Presentation at the August 2014 Academy of Management Conference

“Negotiators are often advised to engage in small talk before getting down to business.... But in a new research study, conducted by [the authors], only men—and not women—received positive results from chit-chatting with their counterparts. In the study, presented at the August annual meeting of the Academy of Management, participants read a transcript and evaluated a negotiator named either JoAnna or Andrew who either did or did not engage in small talk—about local restaurants and a hometown sports team—before negotiating with a business counterpart for control of a scarce resource. Participants judged Andrew to be more communal and likeable when he engaged in small talk before negotiating than when he did not, and the chit-chatting Andrew also was rewarded with better final offers from participants than was the all-business Andrew. JoAnna, on the other hand, was judged the same whether or not she chatted informally with her counterpart, and on a par with the Andrew who didn't make small talk. Chatty Andrew was the clear winner. Gender stereotypes and expectations likely explain the results, according to the authors. Because men are generally viewed as less communal, sociable, and concerned about others than women, men who buck the stereotype with small and

unexpected communal behaviors, like making small talk, may be rewarded in negotiation. (However, men may be penalized for more significant nonstereotypical behavior, such as staying home with their children.) Meanwhile, because we tend to expect women to behave communally, we may not punish them for the minor violation of a gender stereotype—electing not to shoot the breeze before negotiating—the authors hypothesize. Women may need to find “other ways than small talk to cultivate a positive regard in their counterparts,” says study author Shaughnessy. That doesn’t mean that women should assume they have carte blanche to skip the chit-chat. As we all have experienced, in the real world, idle conversation about the weather, sports, and so on can lead to discoveries of commonalities and connection that build bonds for male and female negotiators alike.” Summary courtesy of Program on Negotiation Daily Blog, Harvard Law School (with description available at: <https://www.pon.harvard.edu/daily/leadership-skills-daily/women-and-negotiation-permission-to-skip-the-chit-chat/>)

The Price of Racial Bias: Intergroup Negotiations in the Ultimatum Game

Jennifer Kubota, Jian Li, Eyal Bar-David, Mahzarin Banaji & Elizabeth Phelps
Psychological Science 24(12): 2498 –2504 (December 2013)

Existing stereotypes about Black Americans may influence perceptions of intent during financial negotiations. In this study, we explored whether the influence of race on economic decisions extends to choices that are costly to the decision maker. We investigated whether racial group membership contributes to differential likelihood of rejection of objectively equal unfair monetary offers. In the Ultimatum Game, players accept or reject proposed splits of money. Players keep accepted splits, but if a player rejects an offer, both the player and the proposer receive nothing. We found that participants accepted more offers and lower offer amounts from White proposers than from Black proposers, and that this pattern was accentuated for participants with higher implicit race bias. These findings indicate that participants are willing to discriminate against Black proposers even at a cost to their own financial gain.

Women in Negotiation: Effects of Gender and Power on Negotiation Behavior

Alain P. C. I. Hong & Per J. van der Wijk

Negotiation and Conflict Management Research 6(4): 273-284 (November 2013)

Research shows that women often fare worse at the negotiation table than men. In a recent experimental study using a face-to-face distributive bargaining situation, the authors examined to what extent women’s and men’s negotiation behavior was influenced by power. The authors argue that women are less aware of their power position than men. The experiment stimulated such awareness by having participants recall moments at which they experienced having power (the “power-prime”), before entering a bargaining situation. The power-primed women made better first offers and negotiated better outcomes than women who did not receive that prime. Men’s first offers and negotiation outcomes turned out to be unaffected by power. As a result, the power-prime significantly reduced gender differences in negotiation outcomes. Empowering women via a psychological power boost before they enter a negotiation or any form of dispute resolution interaction seems an effective method of providing them with a better starting point and may be particularly relevant for disputes in which they have to deal with a male party – divorce negotiations, for instance. The authors are currently extending their gender study to leadership issues, where women, after a boost in their leadership confidence, seem to be more inclined to take the lead than without that boost. [DRM Summer 2014]

Ask and Ye Shall Receive? How Gender and Status Moderate Negotiation Success

Emily T. Amanatullah & Catherine H. Tinsley

Negotiation and Conflict Management Research 6(4): 253-272 (November 2013)

The backlash effect is a well-documented negative social reaction toward women who are seen as violating gender norms because they engage in counterstereotypical (noncommunal, agentic) behaviors during the performance of their jobs. This social disincentive has been shown to account for women's diminished likelihood to initiate negotiations relative to men. But we question whether women who ignored this disincentive and initiated negotiations would even receive the resources they requested. We extend past research by showing women also incur financial penalties for initiating negotiations. This financial penalty can be explained by women's lower ascribed status relative to men's status and fortunately can be attenuated if women have achieved status. In two studies, we find consistent evidence that women who ask do not receive unless they have externally conferred status.

Narrow Imaginations: How Imagining Ideal Employees Can Increase Racial Bias

Jazmin L. Brown-Iannuzzi, B. Keith Payne & Sophie Trawalter

Group Processes & Intergroup Relations 16: 661-670 (November 2013)

When people make important decisions, such as selecting a job candidate or graduate school applicant based on how well they fit with that imagined ideal. In two experiments we provide evidence that imagining the ideal has unintended consequences. Imagining an ideal candidate for a professional job led participants to preferentially imagine a White candidate (Experiment 1) and to preferentially hire a White candidate over a Black candidate with matched qualifications (Experiment 2). These effects were independent of explicit prejudice, suggesting that even low-prejudice individuals may be affected by this bias. However, an alternative imagery strategy—imagining a variety of suitable applicants—was effective at remediating the bias. In some cases discrimination may result not from prejudiced attitudes but from failures of the imagination.

How Can Women Escape the Compensation Negotiation Dilemma? Relational Accounts Are One Answer

Hannah Riley Bowles & Linda Babcock

Psychology of Women Quarterly 37(1): 80-96 (March 2013)

Policy makers, academics, and media reports suggest that women could shrink the gender pay gap by negotiating more effectively for higher compensation, yet women entering compensation negotiations face a dilemma. They have to weigh the benefits of negotiating against the social consequences of having negotiated. Research shows that women are penalized socially more than men for negotiating for higher pay. To examine this dilemma, the authors tested strategies to help women improve both their negotiation and social outcomes in compensation negotiations. In Study 1, female negotiators improved social outcomes by communicating concern for organizational relationships, and they improved negotiation outcomes by offering a legitimate account for compensation requests. However, neither strategy—alone or in combination—improved both social and negotiation outcomes. Study 2 tested two strategies for improving social and negotiation outcomes by explaining why a compensation request is legitimate in relational terms. Results showed that, although adherence to the feminine stereotype is insufficient, using these “relational accounts” can improve women’s social and negotiation outcomes at the same time. [DRM Summer 2013]

Exploring the Effect of Media Images on Women's Leadership Self-Perceptions and Aspirations

Stefanie Simon & Crystal Hoyt

Group Processes & Intergroup Relations 16(2): 232-245 (2012)

Across two experimental studies, the present research explores how media images depicting counterstereotypical roles for women, compared to those that depict stereotypical roles for women, affect women's gender role beliefs (Study 1) and responses to a leadership situation (Study 2). Study 1 predicted and found that women exposed to images depicting counterstereotypical roles subsequently reported stronger nontraditional gender role beliefs than women exposed to images depicting stereotypical roles. Study 2 then directly assessed the effect of media images of women on female participants' self-reported responses following a leadership task. Women exposed to media images of women in counterstereotypical roles reported less negative self-perceptions and greater leadership aspirations than women exposed to images of women in stereotypical roles. Moreover, negative self-perceptions mediated the relationship between media images and leadership aspirations. Implications for increasing women's representation in the leadership domain are discussed.

Gender Differences in Initiation of Negotiation: Does the Gender of the Negotiation Counterpart Matter?

Karin Hederos Eriksson & Anna Sandberg

Negotiation Journal 28(4): 407-428 (October 2012)

In this study, we investigated if and how gender differences in the propensity to initiate a negotiation are affected by the gender of the counterpart in the negotiation. We enlisted 204 Swedish students to take part in an experiment in which they had to decide whether to initiate a negotiation for higher compensation. In line with previous research, we found that men were more likely than women to initiate a negotiation: 42 percent of the male and 28 percent of the female participants initiated a negotiation. The gender difference, however, was only large and statistically significant when the negotiation counterpart was a woman. With a female negotiation counterpart, women were less likely than men to initiate a negotiation by 24 percentage points, while with a male negotiation counterpart, the gender difference was only 5 percentage points and not statistically significant. This result suggests that the gender of the negotiation counterpart should be taken into consideration when analyzing gender differences in initiation of negotiation.

Do Women Avoid Salary Negotiations? Evidence from a Large Scale Natural Field Experiment

Andreas Leibbrandt & John List

National Bureau of Economic Research Working Paper 18511 (November 2012). Available at <http://www.nber.org/papers/w18511>

One explanation advanced for the persistent gender pay differences in labor markets is that women avoid salary negotiations. By using a natural field experiment that randomizes nearly 2,500 job-seekers into jobs that vary important details of the labor contract, we are able to observe both the nature of sorting and the extent of salary negotiations. We observe interesting data patterns. For example, we find that when there is no explicit statement that wages are negotiable, men are more likely to negotiate than women. However, when we explicitly mention

the possibility that wages are negotiable, this difference disappears, and even tends to reverse. In terms of sorting, we find that men in contrast to women prefer job environments where the 'rules of wage determination' are ambiguous. This leads to the gender gap being much more pronounced in jobs that leave negotiation of wage ambiguous.

Gender Differences in Initiation of Negotiation: Does the Gender of the Negotiation Counterpart Matter?

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Negotiation Topic as a Moderator of Gender Differences in Negotiation

Julia Bear & Linda Babcock
Psychological Science 23(7): 743-744 (July 2012)

In the current study, we examined whether the masculinity or femininity of the negotiation issue moderates gender differences in performance. We predicted an interaction between the gender of the negotiator and the nature of the negotiation topic: That is, we expected that men would outperform women when negotiating over a masculine issue, and that women would outperform men when negotiating over a feminine issue.

Feminine Charm: An Experimental Analysis of Its Costs and Benefits in Negotiations

Laura Kray, Connson Locke & Alex Van Zant
Personality and Social Psychology Bulletin 38(10): 1343-1357 (July 2012)

The authors examined feminine charm, an impression management technique available to women that combines friendliness with flirtation. They asked whether feminine charm resolves the impression management dilemma facing women who simultaneously pursue task (i.e., economic) and social goals in negotiations. They compared women's social and economic consequences after using feminine charm versus a neutral interaction style. They hypothesized that feminine charm would create positive impressions of its users, thus partially mitigating the social penalties women negotiators often incur. They also expected that the degree to which females were perceived as flirtatious (signaling a concern for self), rather than merely friendly (signaling a concern for other), would predict better economic deals for females. Hypotheses were supported across a correlational study and three experiments. Feminine charm has costs and benefits spanning economic and social measures. Theoretical and practical implications are discussed.

NEGOTIATION: ANGER AND EMOTION

Anger as a Trigger for Information Search in Integrative Negotiations

Laura Rees, Shu-Cheng Steve Chi, Ray Friedman & Huei-Lin Shih

Journal of Applied Psychology 105(7): 713–731 (July 2020)

Research has shown that anger can be both detrimental in negotiations (increasing the chance of impasse or conflict) and helpful to the angry person (by eliciting concessions from the other party). Much of this work has focused on a receiver's emotional response to anger. Yet little work has examined the influence of anger on information search, an important cognitive mechanism for joint value creation in integrative negotiations. The authors propose a cognitive approach: that negotiators facing an angry partner are more likely to seek out diagnostic information about their partner's preferences and priorities. In turn, this information should enable negotiators to reach higher joint gains. Across multiple studies, the authors find that negotiators facing an angry versus a happy counterpart seek out more information, which leads to increased value creation. [DRM Winter 2021]

Controversy Without Conflict: How Group Emotional Awareness and Regulation can Prevent Conflict Escalation

Smaranda Boros

Group Decision and Negotiation 29(2): 251–269 (February 2020)

We investigate whether group emotional awareness can prevent the escalation of controversy into conflict in project teams. We propose that group emotional awareness mitigates the impact of initial task conflicts on the development of group emotion regulation. This, in turn, prevents the escalation of task into relationship conflicts. We test our proposed model through a longitudinal design on project teams over the duration of a 3-month project, from the onset of their work together till the completion of the project. Group emotional awareness mitigates the impact of high levels of initial task conflict on the development of emotion regulation: the latter lacks conditions to develop when group emotional awareness is low and groups experience task conflict and can only develop under high emotional awareness conditions. Once in place, group emotional regulation reduces the likelihood of task conflicts escalating to relationship conflicts.

Kama Muta: Conceptualizing and Measuring the Experience Often Labelled Being Moved Across 19 Nations and 15 Languages

Janis H. Zickfeld, Thomas W. Schubert, Beate Seibt, Johanna K. Blomster, Patricia Arriaga, Nekane Basabe, Agata Blaut, Amparo Caballero, Pilar Carrera, Ilker Dalgas, Yi Ding, Kitty Dumont, Valerie Gaulhofer, Asmir Gračanin, Réka Gyenis, Chuan-Peng Hu, Igor Kardum, Ljiljana B. Lazarević, Leemamol Mathew, Sari Mentser, Ravit Nussinson, Mayuko Onuki, Dario Páez, Anna Pásztor, Kaiping Peng, Boban Petrović, José J. Pizarro, Victoria Schönefeld, Magdalena Śmieja, Akihiko Tokaji, Ad Vingerhoets, Anja Vorster, Jonna Vuoskoski, Lei Zhu & Alan Page Fiske

Emotion 19(3): 402-424 (April 2019)

English-speakers sometimes say that they feel “moved to tears,” “emotionally touched,” “stirred,” or that something “warmed their heart;” other languages use similar passive contact metaphors to refer to an affective state. The authors propose and measure the concept of kama muta to understand experiences often given these and other labels. Do the same experiences

evoke the same kama muta emotion across nations and languages? They conducted studies in 19 different countries, 5 continents, 15 languages, with a total of 3,542 participants. They tested the construct while validating a comprehensive scale to measure the appraisals, valence, bodily sensations, motivation, and lexical labels posited to characterize kama muta. The results are congruent with theory and previous findings showing that kama muta is a distinct positive social relational emotion that is evoked by experiencing or observing a sudden intensification of communal sharing. It is commonly accompanied by a warm feeling in the chest, moist eyes or tears, chills or piloerection, feeling choked up or having a lump in the throat, buoyancy, and exhilaration. It motivates affective devotion and moral commitment to communal sharing. Although the authors observed some variations across cultures, these 5 facets of kama muta are highly correlated in every sample, supporting the validity of the construct and the measure.

Sex Differences in Emotion Recognition: Evidence For a Small Overall Female Superiority on Facial Disgust

Emotion 19(3): 455-464 (April 2019)

Hannah L. Connolly, Carmen E. Lefevre, Andrew W. Young & Gary J. Lewis

Although it is widely believed that females outperform males in the ability to recognize other people's emotions, this conclusion is not well supported by the extant literature. The current study sought to provide a strong test of the female superiority hypothesis by investigating sex differences in emotion recognition for five basic emotions using stimuli well-calibrated for individual differences assessment, across two expressive domains (face and body), and in a large sample (N = 1,022: Study 1). We also assessed the stability and generalizability of our findings with two independent replication samples (N = 303: Study 2, N = 634: Study 3). In Study 1, we observed that females were superior to males in recognizing facial disgust and sadness. In contrast, males were superior to females in recognizing bodily happiness. The female superiority for recognition of facial disgust was replicated in Studies 2 and 3, and this observation also extended to an independent stimulus set in Study 2. No other sex differences were stable across studies. These findings provide evidence for the presence of sex differences in emotion recognition ability, but show that these differences are modest in magnitude and appear to be limited to facial disgust. We discuss whether this sex difference may reflect human evolutionary imperatives concerning reproductive fitness and child care.

Feeling Hangry? When Hunger is Conceptualized as Emotion

Jennifer K. MacCormack & Kristen A. Lindquist

Emotion 19(2): 301-319 (March 2019)

Many people feel emotional when hungry—or “hangry”—yet little research explores the psychological mechanisms underlying such states. Guided by psychological constructionist and affect misattribution theories, we propose that hunger alone is insufficient for feeling hangry. Rather, we hypothesize that people experience hunger as emotional when they conceptualize their affective state as negative, high arousal emotions specifically in a negative context. Studies 1 and 2 use a cognitive measure (the affect misattribution procedure; Payne, Hall, Cameron, & Bishara, 2010) to demonstrate that hunger shifts affective perceptions in negative but not neutral or positive contexts. Study 3 uses a laboratory-based experiment to demonstrate that hunger causes individuals to experience negative emotions and to negatively judge a researcher, but only when participants are not aware that they are conceptualizing their affective state as emotions. Implications for emotion theory, health, and embodied contributions to perception are discussed.

Stereotypes and Prejudice Affect the Recognition of Emotional Body Postures

Gijsbert Bijlstra, Rob W. Hollad, Ron Dotsch & Daniel H.J. Wigboldus

Emotion 19(2): 189-199 (March 2019)

Most research on emotion recognition focuses on facial expressions. However, people communicate emotional information through bodily cues as well. Prior research on facial expressions has demonstrated that emotion recognition is modulated by top-down processes. Here, we tested whether this top-down modulation generalizes to the recognition of emotions from body postures. We report three studies demonstrating that stereotypes and prejudice about men and women may affect how fast people classify various emotional body postures. Our results suggest that gender cues activate gender associations, which affect the recognition of emotions from body postures in a top-down fashion.

The Anger-Infused Ultimatum Game: A Reliable and Valid Paradigm to Induce and Assess Anger

Gadi Gilam, Rany Abend, Hagai Shani, Ziv Ben-Zion & Talma Hendler

Emotion, 19(1): 84-96 (February 2019)

The Ultimatum Game (UG) is a canonical social decision-making task whereby a proposer divides a sum of money between himself and a responder who accepts or rejects the offer. Studies consistently demonstrate that unfair offers induce anger, and that rejecting such offers relates to aggression. Nevertheless, the UG is limited in interpersonal provocations common to real-life experiences of anger. Moreover, the psychometric properties of the UG as an anger-induction paradigm have yet to be evaluated. Here, to induce a more intense and genuine anger experience, we implemented a modified UG whereby short written provocations congruent with unfairness levels accompanied each offer. We aimed to test whether this anger-infused UG led to more anger and aggressive responses relative to the standard UG and to establish the reliability and validity of both versions. Participants performed either the anger-infused UG or a standard version, repeated twice, a week apart. They also performed the Taylor Aggression Paradigm, a reactive aggression paradigm, and completed emotion ratings and a trait anger inventory. Results indicate similar decreases in acceptance rates with increase in offer unfairness, and increases in reported anger, across both UG versions. Both versions demonstrated strong test-retest reliability. However, the anger-infused UG led to significantly stronger relations with reactive aggression and trait anger compared to the standard UG, providing evidence for better validity. The development of the anger-infused UG as a reliable and valid paradigm is pivotal for the induction and assessment of interpersonal anger and its aggressive expression in basic and clinical research settings.

Does Counting Emotion Words on Online Social Networks Provide a Window Into People's Subjective Experience of Emotion? A Case Study on Facebook

Ethan Kross, Philippe Verduyn, Margaret Boyer, Brittany Drake, Izzy Gainsburg, Brian Vickers, Oscar Ybarra & John Jonides

Emotion 19(1): 97-107 (February 2019)

Psychologists have long debated whether it is possible to assess how people subjectively feel without asking them. The recent proliferation of online social networks has recently added a fresh chapter to this discussion, with research now suggesting that it is possible to index people's subjective experience of emotion by simply counting the number of emotion words contained in

their online social network posts. Whether the conclusions that emerge from this work are valid, however, rests on a critical assumption: that people's usage of emotion words in their posts accurately reflects how they feel. Although this assumption is widespread in psychological research, here we suggest that there are reasons to challenge it. We corroborate these assertions in 2 ways. First, using data from 4 experience-sampling studies of emotion in young adults, we show that people's reports of how they feel throughout the day neither predict, nor are predicted by, their use of emotion words on Facebook. Second, using simulations we show that although significant relationships emerge between the use of emotion words on Facebook and self-reported affect with increasingly large numbers of observations, the relationship between these variables was in the opposite of the theoretically expected direction 50% of the time (i.e., 3 of 6 models that we performed simulations on). In contrast to counting emotion words, we show that judges' ratings of the emotionality of participants' Facebook posts consistently predicts how people feel across all analyses. These findings shed light on how to draw inferences about emotion using online social network data.

An Experiment Investigating the Spillover Effects of Communication Opportunities

Anastasios Koukouvelis & M. Vittoria Levati

Journal of Economic Behavior & Organization 158: 147-157 (February 2019)

We report on an experiment designed to explore whether the effects of expressing one's emotions spill over into future interactions, thereby curtailing subsequent selfish decisions. In between two identical public goods games, participants play a binary-choice dictator game which, depending on the treatment, either gives or does not give the recipient the opportunity to text the dictator. The recipients of an unfair offer—in contrast to the recipients of a fair offer—contribute significantly less in the second public goods game. Yet, their contribution reductions are significantly smaller in the treatment allowing for recipient communication. To control for a belief-based explanation of these findings, we run treatments where we elicit beliefs about the other's contribution. We find that belief elicitation affects the efficacy of communication.

Losing Your Temper and Your Perspective: Anger Reduces Perspective-Taking

Jeremy A. Yip & Maurice E. Schweitzer

Organizational Behavior and Human Decision Processes 150: 28-45 (January 2019)

Across six studies, we find that both incidental anger and integral anger reduce perspective-taking. In Study 1, participants who felt incidental anger were less likely to take others' perspectives than those who felt neutral emotion. In Study 2, we demonstrate that arousal mediates the relationship between anger and diminished perspective-taking. In Studies 3 and 4, we show that anger reduces perspective-taking compared to neutral emotion, sadness, and disgust. In Study 5, we find that integral anger impairs perspective-taking compared to neutral emotion. In Study 6, prompting individuals to correctly attribute their feelings of incidental anger moderates the relationship between anger and perspective-taking. Taken together, across different anger inductions and perspective taking measures, we identify a robust relationship between anger and diminished perspective-taking. Our findings have particularly important implications for conflict, which is often characterized by feelings of anger and exacerbated by poor perspective-taking.

Intrapersonal Emotional Responses to the Inquiry and Advocacy Modes of Interaction: A Psychophysiological Study

Ilkka Leppänen, Raimo P. Hämäläinen, Esa Saarinen & Mikko Viinikainen

Group Decision and Negotiation 27(6): 933-948 (December 2018)

In negotiations and group decision making we can use two characteristically different interaction modes: inquiry and advocacy. Inquiry refers to an interested and explorative interaction mode, and advocacy to an assertive and narrow mode. Although these modes have been studied in organizational behavior literature, the intrapersonal emotional responses to the inquiry and advocacy modes remain yet unexplored. We explored intrapersonal emotions by facial electromyography and skin conductance responses and by emotional empathy self-reports. The subjects were prompted to adopt the two modes in hypothetical encounters with another person. We found that Duchenne smiles were specific to the inquiry mode, that emotional arousal showed specificity to the expressions, and that emotional empathy predicts expressiveness in the inquiry treatment. We discuss the implications of these results to the use of the interaction modes and the related possibilities of influencing group interaction by influencing one's own internal emotional state in group decisions.

Anger as a Catalyst For Change? Incremental Beliefs and Anger's Constructive Effects in Conflict

Eric Shuman, Eran Halperin & Michal Reifen Tagar

Group Processes & Intergroup Relations 21(7): 1092-1106 (October 2018)

The traditional understanding of the role of anger in conflicts is that it leads to aggressive actions that escalate conflict. However, recent research has found that under certain circumstances anger can have constructive effects such as increasing support for more risky conciliatory steps in negotiation. The current study aims to identify a psychological moderator that determines whether anger has such destructive or constructive effects. We propose that people's beliefs about the malleability of groups (i.e., implicit theories about groups) moderate whether anger leads to conciliatory, constructive behaviors or destructive, aggressive behaviors. We test this hypothesis in two different contexts (a) race relations in the US in the context of recent protests against police brutality, and (b) the Israeli–Palestinian conflict. Results indicated that induced anger (compared to control condition) increased support for aggressive policies for participants who believed that groups cannot change. In contrast, for those who believed groups can change, inducing anger actually increased support for conciliatory policies compared to a control condition. Together, this indicates that anger can have constructive effects in conflict when people believe that groups can change.

When Does the Communication of Group-Based Anger Increase Outgroup Empathy in Intergroup Conflict? The Role Of Perceived Procedural Unfairness and Outgroup Consensus

Bart de Vos, Martijn van Zomeren, Ernestine H. Gordijn & Tom Postmes

Group Processes & Intergroup Relations 21(4): 533-548 (June 2018)

Increasing outgroup empathy is an important first step toward reducing intergroup conflict. The communication of group-based anger has been found to increase outgroup empathy due to its presumed relational function (as it signals to the outgroup that they unfairly treat the ingroup, but also that the ingroup wants to maintain a positive intergroup relationship). Yet, little is known about when communicating group-based anger increases outgroup empathy. We

therefore examine two antecedent conditions, namely perceived procedural unfairness (which makes the communication of anger more appropriate) and outgroup consensus (which makes the communication of anger more group-based). Three experiments suggest that the communication of group-based anger increases outgroup empathy only when the outgroup was treated unfairly (Experiment 1) and when there was high outgroup consensus (Experiment 2). Results from Experiment 3 revealed that either antecedent seems sufficient to facilitate the positive, empathy-inducing effects of the communication of group-based anger. We discuss the implications of these findings for the theory and practice of communicating anger in intergroup conflicts to increase outgroup empathy.

Everything in Moderation: The Social Effects of Anger Depend on its Perceived Intensity

Hajo Adam & Jeanne M. Brett

Journal of Experimental Social Psychology 76: 12-18 (May 2018)

Research has documented the important influence of anger expressions on negotiation processes and outcomes. Surprisingly, however, it remains an open question if this influence depends on a core characteristic of anger displays—the intensity with which anger is expressed. Results from two negotiation studies (N = 396) using different operationalizations of anger intensity, different negotiation procedures, and different subject populations demonstrated a curvilinear relationship between the intensity of the anger expression and the negotiation counterpart's concessions. In particular, moderate-intensity anger led to larger concessions than no anger because the anger expresser was perceived as tough, and high-intensity anger led to smaller concessions than moderate-intensity anger because the anger expression was perceived as inappropriate. Furthermore, expressing anger, and, in particular, high-intensity anger, reduced anger perceivers' subjective value outcomes in the form of negative feelings about the relationship. Theoretical contributions to research on anger, emotion, and negotiation are discussed. [DRM Summer 2018]

The Dark Side of Subjective Value in Sequential Negotiations: The Mediating Role of Pride and Anger

William Becker & Jared Curhan

Journal of Applied Psychology 103(1): 74-87 (January 2018)

Scholars who study negotiation increasingly recognize the importance of social context, seeing negotiations not merely as 1-shot interactions but as influenced by what came before. Under this longitudinal conceptualization of negotiation, a number of recent studies demonstrate that social psychological outcomes from prior negotiations are positively related to economic performance in subsequent negotiations when negotiating repeatedly with the same counterpart. In this report, the authors investigate a counter-example in the context of “sequential negotiations,” which they define as multiple negotiation sessions that occur within a short time frame but facing different counterparts in each session. They theorize that in sequential negotiations subjective value from one negotiation should be negatively related to objective outcomes in a subsequent negotiation because of spillover effects of incidental anger and pride. They test this model in two studies: a multi-round lab study with a student sample and a longitudinal field study with employees negotiating as part of their jobs. Results from both studies support the hypothesized negative relationship between subjective value from an initial negotiation and the objective outcome from a subsequent negotiation with a different counterpart. The mediating role of pride is supported partially in Study 1 and fully in Study 2,

whereas the mediating role of anger is not supported in either study. The authors discuss implications for negotiation theory and practice. [DRM Summer 2018]

On the Difference Between Moral Outrage and Empathic Anger: Anger About Wrongful Deeds or Harmful Consequences

Stefanie Hechler & Thomas Kessler

Journal of Experimental Social Psychology 76: 270-282 (May 2018)

Moral violations seem to elicit moral outrage because of the wrongfulness of the deed. However, recent studies have questioned the existence of moral outrage, because moral violations are confounded with the harm done to victims. Such harm elicits empathic anger rather than moral outrage (Batson et al., 2007; Batson et al., 2009). Thus, moral outrage is triggered by the wrongfulness of an action (i.e., a perpetrator's intention to harm), whereas empathic anger is triggered by its harmfulness (i.e., the actual harm done). Four studies (N = 1065) in varying contexts orthogonally crossed these antecedents of anger to differentiate between moral outrage and empathic anger. The results demonstrate that anger mainly emerged from the intention to harm, rather than the actual harm done. In contrast, the actual harm elicited empathy with victims. The findings suggest that anger about moral violations emerges separately from empathic reactions, although these reactions are difficult to distinguish in most instances. Likewise, the intention to harm provoked a willingness to punish the perpetrator much more than the actual harm did. Moral violations thus elicit moral outrage independently of their harmful consequences, even though such anger may often overlap with concern for others.

When Is Anger Helpful or Hurtful? Status and Role Impact on Anger Expression and Outcomes

Ronda Roberts Callister, Deanna Geddes & Donald F. Gibson

Negotiation and Conflict Management Research 10(2): 69-87 (May 2017)

Anger expressers and targets often experience anger as an unpleasant and potentially damaging emotion. However, emerging social functional perspectives on workplace anger suggest that anger expressions can promote valued dialogue, facilitating the airing of differences that can lead to improved working relationship and movement toward organizational goals and beneficial change. While supervisors typically express work-related anger with impunity, subordinate anger may be challenged and sanctioned more frequently. Hypotheses tested status (supervisor vs. subordinate) and role (expresser vs. target) effects on perceived outcomes. Findings indicate a significant main effect for status and significant interaction with role such that subordinates who are targets of supervisor anger, reported significantly more negative outcomes from anger expression than any other type of anger interaction. We also found that existing strong relationships between supervisors and subordinates contribute to outcomes that are more favorable following anger expressions at work.

Mad and Misleading: Incidental Anger Promotes Deception

Jeremy A. Yip & Maurice E. Schweitzer

Organizational Behavior and Human Decision Processes 137: 207-217 (November 2016)

Emotions influence ethical behavior. Across four studies, we demonstrate that incidental anger, anger triggered by an unrelated situation, promotes the use of deception. In Study 1, participants who felt incidental anger were more likely to deceive their counterpart than those who felt neutral emotion. In Study 2, we demonstrate that empathy mediates the relationship

between anger and deception. In Study 3, we contrast anger with another negative-valence emotion, sadness. We find that participants who felt incidental anger were more likely to use deception than were participants who felt incidental sadness or neutral emotion. In Study 4, we show that incentives moderate the relationship between anger and deception. Collectively, our work reveals that incidental anger promotes unethical behavior because angry people become less empathetic when pursuing their self-interest. [DRM Winter 2017]

Head Movements Encode Emotions During Speech and Song

Steven R. Livingstone & Caroline Palmer

Emotion 16(3): 365-380 (October 2016)

When speaking or singing, vocalists often move their heads in an expressive fashion, yet the influence of emotion on vocalists' head motion is unknown. Using a comparative speech/song task, we examined whether vocalists' intended emotions influence head movements and whether those movements influence the perceived emotion. In Experiment 1, vocalists were recorded with motion capture while speaking and singing each statement with different emotional intentions (very happy, happy, neutral, sad, very sad). Functional data analyses showed that head movements differed in translational and rotational displacement across emotional intentions, yet were similar across speech and song, transcending differences in F0 (varied freely in speech, fixed in song) and lexical variability. Head motion specific to emotional state occurred before and after vocalizations, as well as during sound production, confirming that some aspects of movement were not simply a by-product of sound production. In Experiment 2, observers accurately identified vocalists' intended emotion on the basis of silent, face-occluded videos of head movements during speech and song. These results provide the first evidence that head movements encode a vocalist's emotional intent and that observers decode emotional information from these movements. We discuss implications for models of head motion during vocalizations and applied outcomes in social robotics and automated emotion recognition.

Personality Similarity in Negotiations: Testing the Dyadic Effects of Similarity in Interpersonal Traits and the Use of Emotional Displays on Negotiation Outcomes

Kelly Schwind Wilson, D. Scott DeRue, Fadel K. Matta, Michael Howe & Donald E. Conlon

Journal of Applied Psychology 101(10): 1405-1421 (October 2016)

We build on the small but growing literature documenting personality influences on negotiation by examining how the joint disposition of both negotiators with respect to the interpersonal traits of agreeableness and extraversion influences important negotiation processes and outcomes. Building on similarity-attraction theory, we articulate and demonstrate how being similarly high or similarly low on agreeableness and extraversion leads dyad members to express more positive emotional displays during negotiation. Moreover, because of increased positive emotional displays, we show that dyads with such compositions also tend to reach agreements faster, perceive less relationship conflict, and have more positive impressions of their negotiation partner. Interestingly, these results hold regardless of whether negotiating dyads are similar in normatively positive (i.e., similarly agreeable and similarly extraverted) or normatively negative (i.e., similarly disagreeable and similarly introverted) ways. Overall, these findings demonstrate the importance of considering the dyad's personality configuration when attempting to understand the affective experience as well as the downstream outcomes of a negotiation. [DRM Winter 2017]

Strategic Consequences of Emotional Misrepresentation in Negotiation: The Blowback Effect

Rachel L. Campagna, Alexandra A. Mislin, Dejun Tony Kong & William P. Bottom
Journal of Applied Psychology 101(5): 605-624 (May 2016)

Recent research indicates that expressing anger elicits concession making from negotiating counterparts. When emotions are conveyed either by a computer program or by a confederate, results appear to affirm a long-standing notion that feigning anger is an effective bargaining tactic. We hypothesize this tactic actually jeopardizes post-negotiation deal implementation and subsequent exchange. Four studies directly test both tactical and strategic consequences of emotional misrepresentation. False representations of anger generated little tactical benefit but produced considerable and persistent strategic disadvantage. This disadvantage is because of an effect we call “blowback.” A negotiator’s misrepresented anger creates an action-reaction cycle that results in genuine anger and diminishes trust in both the negotiator and counterpart. Our findings highlight the importance of considering the strategic implications of emotional misrepresentation for negotiators interested in claiming value. We discuss the benefits of researching reciprocal interdependence between 2 or more negotiating parties and of modeling value creation beyond deal construction to include implementation of terms. [DRM Winter 2017]

Unlocking Integrative Potential: Expressed Emotional Ambivalence and Negotiation Outcomes

Naomi Rothman & Gregory Northcraft

Organizational Behavior and Human Decision Processes 126: 65-76 (2015)

This paper examines how one negotiator’s expressed emotional ambivalence can foster integrative outcomes. Study 1 demonstrated that observing a negotiation partner’s emotional ambivalence leads negotiators to come up with more integrative agreements. Study 2 examined a proposed mechanism: Expressed ambivalence leads to an increased perceived ability to influence the ambivalent negotiator because it suggests submissiveness. Study 3 demonstrated that perceived submissiveness mediates the effects of observed emotional ambivalence on integrative agreements. Implications of these findings for negotiation and emotions research, and directions for future research, are discussed.

Testing the Prosocial Effectiveness of the Prototypical Moral Emotions: Elevation Increases Benevolent Behaviors and Outrage Increases Justice Behaviors

J. Van de Vyver & D. Abrams

Journal of Experimental Social Psychology 58: 23-33 (2015)

How can we overcome apathy and instigate a desire to help others? This research tests and compares the prosocial effects of two of the most prototypical emotions on a range of prosocial intentions and behaviors. Emotion-inducing videos were used to instigate states of moral elevation (felt when witnessing a moral virtue) and/or moral outrage (felt when witnessing a moral transgression). Although elevation and outrage are derived from opposing appraisals, separate strands of research show that they both instigate a desire to help others. The current research tests the appraisal tendency framework to explore whether elevation and outrage increase prosociality across moral domains or whether their prosocial effects are domain specific. Results of Experiment 1 showed that elevation, but not outrage, increased donations to charity (i.e., benevolence domain). Experiment 2 showed that outrage, but not elevation,

increased prosocial political action intentions (i.e., justice domain). Experiment 3 showed that outrage, but not elevation, increased compensation in a third-party bystander game (i.e., justice domain). This research shows that although elevation and outrage both inspire a desire to help others, they affect distinct types of prosocial behaviors, offering support for the appraisal tendency framework. Applied and theoretical implications are discussed.

Poker-Faced Morality: Concealing Emotions Leads to Utilitarian Decision Making

Jooa Julia Lee & Francesca Gino

Organizational Behavior and Human Decision Processes 126: 49-64 (2015)

This paper examines how making deliberate efforts to regulate aversive affective responses influences people's decisions in moral dilemmas. We hypothesize that emotion regulation—mainly suppression and reappraisal—will encourage utilitarian choices in emotionally charged contexts and that this effect will be mediated by the decision maker's decreased deontological inclinations. In Study 1, we find that individuals who endorsed the utilitarian option (vs. the deontological option) were more likely to suppress their emotional expressions. In Studies 2a, 2b, and 3, we instruct participants to either regulate their emotions, using one of two different strategies (reappraisal vs. suppression), or not to regulate, and we collect data through the concurrent monitoring of psycho-physiological measures. We find that participants are more likely to make utilitarian decisions when asked to suppress their emotions rather than when they do not regulate their affect. In Study 4, we show that one's reduced deontological inclinations mediate the relationship between emotion regulation and utilitarian decision making.

Is Waiting the Hardest Part? Comparing the Emotional Experiences of Awaiting and Receiving Bad News

Kate Sweeny & Angelica Falkenstein

Personality and Social Psychology Bulletin 41(11): 1551-1559 (November 2015)

Awaiting uncertain news is stressful, but is it more stressful than receiving bad news? We compared these emotional experiences in two studies. Participants in Study 1 reflected on a personal experience awaiting news that ultimately turned out badly, and participants in Study 2 were law graduates awaiting their results on the bar exam who ultimately failed the exam. In Study 1, participants were ambivalent as to whether awaiting or receiving bad news was more difficult, and emotion ratings in both studies confirmed this ambivalence. Anxiety was higher in anticipation of bad news (at least at the moment of truth) than in the face of it, whereas other negative emotions were more intense following the news than during the waiting period. Thus, whether waiting is “the hardest part” depends on whether one prefers to be racked with anxiety or afflicted with other negative emotions such as anger, disappointment, depression, and regret.

Context Matters: The Social Effects of Anger in Cooperative, Balanced, and Competitive Negotiation Situations

Hajo Adam & Jeanne M. Brett

Journal of Experimental Social Psychology 61: 44-58 (November 2015)

When does expressing anger in negotiations lead to concessions? Although research has begun to address this question, it has not yet examined the influence of the negotiation context. We propose that the effect of expressing anger depends on the competitiveness of the negotiation situation. Specifically, when the negotiation situation balances cooperative and competitive

elements, expressing anger elicits larger concessions than no anger, and responses are driven by cooperation-inducing strategic inferences (e.g., a perception that the anger expresser is tough and threatening). However, when the negotiation context is predominantly cooperative or predominantly competitive, expressing anger does not elicit larger concessions than no anger, and responses are driven by cooperation-inhibiting affective reactions (e.g., reciprocal anger and a desire to retaliate against the anger expresser). Results from two computer-mediated negotiation experiments using different negotiation scenarios, different manipulations of the competitiveness of the situation, and different subject populations supported our hypotheses. [DRM Winter 2016]

The Persuasive Power of Emotions: Effects of Emotional Expressions on Attitude Formation and Change

Gerben A. Van Kleef, Helma van den Berg & Marc W. Heerdink
Journal of Applied Psychology 100(4): 1124-1142 (July 2015)

Despite a long-standing interest in the intrapersonal role of affect in persuasion, the interpersonal effects of emotions on persuasion remain poorly understood—how do one person’s emotional expressions shape others’ attitudes? Drawing on emotions as social information (EASI) theory (Van Kleef, 2009), we hypothesized that people use the emotional expressions of others to inform their own attitudes, but only when they are sufficiently motivated and able to process those expressions. Five experiments support these ideas. Participants reported more positive attitudes about various topics after seeing a source’s sad (rather than happy) expressions when topics were negatively framed (e.g., abandoning bobsleighbing from the Olympics). Conversely, participants reported more positive attitudes after seeing happy (rather than sad) expressions when topics were positively framed (e.g., introducing kite surfing at the Olympics). This suggests that participants used the source’s emotional expressions as information when forming their own attitudes. Supporting this interpretation, effects were mitigated when participants’ information processing was undermined by cognitive load or was chronically low. Moreover, a source’s anger expressions engendered negative attitude change when directed at the attitude object and positive change when directed at the recipient’s attitude. Effects occurred regardless of whether emotional expressions were manipulated through written words, pictures of facial expressions, film clips containing both facial and vocal emotional expressions, or emoticons. The findings support EASI theory and indicate that emotional expressions are a powerful source of social influence.

Emotional Intelligence and Negotiation Outcomes: Mediating Effects of Rapport, Negotiation Strategy, and Judgment Accuracy

Kihwan Kim, Nicole L. Cundiff & Suk Bong Choi
Group Decision and Negotiation 24(3): 477-493 (May 2015)

The current research was designed to examine the effects of emotional intelligence on both economic and social outcomes, as well as to explore the extent to which rapport, bargaining strategy, and judgment accuracy would mediate relationships between emotional intelligence and negotiation outcomes. Upper-level business students (284 individuals, 142 dyads) were pre-tested on emotional intelligence using the 33-item measure from Schutte et al. (*Personal Individ Differ* 25:167–177, 1998). They were then recruited to participate in a job contract negotiation in which one party played the role of personnel manager and the other played the role of a new employee. Emotional intelligence had a significant, positive effect on the three social negotiation

outcomes of trust, satisfaction, and desire to work together again in the future. Moreover, rapport and negotiation strategy either fully or partially mediated each of these relationships. In contrast, emotional intelligence had no significant effects on economic outcomes.

Life History, Code of Honor, and Emotional Responses to Inequality in an Economic Game

Eric J. Pedersen, Daniel E. Forster & Michael E. McDonough

Emotion 14(5): 920–929 (2014)

The code of honor, which is characterized by a preoccupation with reputation and willingness to take retaliatory action, has been used extensively to explain individual and cultural differences in peoples' tendencies to behave aggressively. However, research on the relationship between the code of honor and emotional responses to social interactions has been limited in scope, focusing primarily on anger in response to insults and reputational threats. Here we broaden this scope by examining the relationship between code of honor and emotional reactions in response to an unfair economic exchange that resulted in unequal monetary earnings among 3 laboratory participants. We found that endorsement of the code of honor was related to anger and envy in response to unfair monetary distributions. Interestingly, code of honor predicted envy above and beyond what could be accounted for by anger, but the converse was not the case. This suggests that the code of honor influenced perceptions of how subjects viewed their own earnings relative to those of others, which consequently was responsible for their apparent anger as a result of the economic transaction. Furthermore, the unique relationship between code of honor and envy was present only for subjects who received unfair treatment and not for subjects who merely witnessed unfair treatment. Additionally, we replicated previous findings that harsh childhood environmental conditions are associated with endorsement of the code of honor, highlighting the potential value of incorporating a life history theoretical approach to investigating individual differences in endorsement of the code of honor.

Emotions Shape Decisions Through Construal Level: The Case of Guilt and Shame

DaHee Han, Adam Duhachek & Nidhi Agrawal

Journal of Consumer Research 41(4): 1047-1064 (December 2014)

Four experiments show that emotions systematically influence judgments and persuasion by altering construal levels. Guilt-laden consumers, relative to those who were shame-laden, adopted lower levels of construal. In subsequent unrelated judgments, guilt increased reliance on feasibility over desirability attributes and emphasized secondary rather than primary features. Shame led to the opposite pattern. Guilt's tendency to draw behavior-specific appraisals activates local appraisal tendencies and endows lower construal levels, whereas shame's tendency to implicate the entire self activates global appraisal tendencies and endows consumers with higher construal levels. As a boundary condition to the core effect, the results showed that the differences between guilt and shame only held when the emotions arose from actions rather than from inaction situations. These findings provide insight into when and why guilt and shame have different effects on subsequent decisions

With Feeling: How Emotions Shape Negotiation

Mara Olekalns & Daniel Druckman

Negotiation Journal, 30: 455–478 (October 2014)

Recognition of the role played by emotions in negotiation is growing. This article synthesizes current research around four broad themes: moves and exchanges, information

processing, social interaction, and context. The authors' review reveals that much of the research on this topic has focused on two key emotions, anger and happiness. More recently, negotiators have turned to other emotions such as guilt and disappointment, demonstrating that not all negative emotions have the same consequences, or activate the same regions of the brain. Focusing on social interaction, the authors note that negotiators may influence each others' emotions: whether negotiators converge to anger or happiness has different consequences for agreement. Researchers have broadened their examination of emotion by considering how external factors such as power, the number of negotiators, culture, and gender influence the impact of emotional expression. The authors also consider the function and impact of expressing authentic emotions, or choosing to use emotions strategically to gain an advantage — an issue that raises important ethical questions for negotiators. The article concludes with some practical implications of the research.

Emotional Reactions to Unequal Payment: The Impact of Meritocratic Ideology and Salary Negotiability

Angela T. Maitner

Group Processes & Intergroup Relations 18(2): 153-172 (July 2014)

People respond to low-status inequality with feelings of anger and shame. This work investigates the impact of meritocracy beliefs and implied salary negotiability on individuals' emotional reactions within a stable status hierarchy. When an unequal system appears negotiable, believing that hard work pays off may decrease anger felt in response to inequality. However, learning that a system is non-negotiable violates expectations associated with meritocratic beliefs, and may therefore increase negative emotion. In two experiments investigating participants' emotional reactions to payment systems, the more participants endorsed meritocratic ideologies, the less anger they felt when unequal treatment appeared negotiable. Experiment 2 showed that endorsement of meritocracy beliefs increased negative emotions when individuals learned that the unequal payment was non-negotiable. Taken together, this work suggests that it is important to consider beliefs about individual agency alongside system parameters establishing opportunities for individual mobility to understand emotional reactions to unequal treatment.

“I am Disgusted by Your Proposal”: The Effects of a Strategic Flinch in Negotiations

Neil Fassina & Glen Whyte

Group Decision and Negotiation 23(4): 901-920 (July 2014)

To flinch in negotiations refers to verbal or physical displays of shock, disgust, or disbelief made in response to an opening offer. We investigated the impact of advising negotiators to strategically flinch in distributive bargaining. In experiment 1, negotiators who flinched claimed significantly more value than negotiators who did not flinch. Targets of a flinch, however, viewed the negotiation relationship less positively than negotiators in a control condition. Yet, flinching appeared to have no effect on the target negotiators' perceptions of how well they did. In experiment 2, the notion that a subtle flinch might still facilitate value claiming but without imperilling the bargaining relationship was supported. Implications for negotiation theory and practice, and directions for future research, are discussed.

Strategic Display of Anger and Happiness in Negotiation: The Moderating Role of Perceived Authenticity

H.-Y. Tng & A.K.C. Au

Negotiation Journal, 30: 301–327 (July 2014)

Emotional display is often used as a strategy in negotiation to manipulate one's counterpart's behavior. Previous research has examined the interpersonal effects of emotions in negotiation, but the evidence so far has largely focused on the perspective of the negotiator displaying the emotion with little attention paid to the impact of the emotional display on that negotiator's counterparts. In this study, we conducted two experiments to examine whether a negotiator's perceptions about the authenticity of his or her counterpart's displayed emotions of anger and happiness moderate the impact of those emotions on the negotiator. In Experiment One, we manipulated the perceived authenticity of the counterpart's anger as a between-subjects factor (authentic versus inauthentic). Negotiators who perceived their counterpart's anger as inauthentic conceded less than did negotiators who perceived it as authentic. In Experiment Two, we corroborated this finding with a two-variable (counterpart's emotion: anger versus happiness) times three-variable (perceived authenticity of counterpart's displayed emotion: authentic versus ambiguous versus inauthentic) between-subjects design. Negotiators conceded more to an angry counterpart than to a happy one when they perceived their counterpart's emotion as authentic, but we found the reverse pattern among negotiators who perceived their counterparts' emotions as inauthentic. Negotiators who perceived their counterparts' emotions as ambiguous in authenticity did not differ in concessions whether the counterpart displayed anger or happiness. We discuss the theoretical and practical implications of these findings.

The Interactive Effect of Anger and Disgust on Moral Outrage and Judgments

Jessica M. Salerno & Liana C. Peter-Hagene

Psychological Science 24(10): 2069-2078 (October 2013)

The two studies reported in this article demonstrated that a combination of anger and disgust predicts moral outrage. In Study 1, anger toward moral transgressions (sexual assault, funeral picketing) predicted moral outrage only when it co-occurred with at least moderate disgust, and disgust predicted moral outrage only when it co-occurred with at least moderate anger. In Study 2, a mock-jury paradigm that included emotionally disturbing photographs of a murder victim, revealed that, compared to anger, disgust was a more consistent predictor of moral outrage (i.e., it predicted moral outrage at all levels of anger). Furthermore, moral outrage influenced the effect of participants' anger on their confidence in a guilty verdict - but only when anger co-occurred with at least a moderate level of disgust - whereas moral outrage influenced the effect of participants' disgust on their verdict confidence at all levels of anger. The interactive effect of anger and disgust has important implications for theoretical explanations of moral outrage, moral judgments in general, and legal decision making. [DRM Winter 2014]

Not All Anger is Created Equal: The Impact of the Expresser's Culture on the Social Effects of Anger in Negotiations

Hajo Adam & Aiwa Shirako

Journal of Applied Psychology 98(5): 785-798 (September 2013)

The influence of culture on the social effects of emotions in negotiations has recently gained the attention of researchers, but to date this research has focused exclusively on the cultural background of the *perceiver* of the emotion expression. The current research offers the

first investigation of how the cultural background of the *expresser* influences negotiation outcomes. On the basis of the stereotype that East Asians are emotionally inexpressive and European Americans are emotionally expressive, the authors predicted that anger would have a stronger signaling value when East Asians rather than European American negotiators expressed it. Specifically, they predicted that angry East Asian negotiators would be perceived as tougher and more threatening and therefore elicit greater cooperation from counterparts compared with angry European American negotiators. Results from four negotiation studies supported the predictions. In Study 1, angry East Asian negotiators elicited greater cooperation than angry European American and Hispanic negotiators. In Study 2, angry East Asian negotiators elicited greater cooperation than angry European American ones, but emotionally neutral East Asian and European American negotiators elicited the same level of cooperation. Study 3 showed that this effect holds for both East Asian and European American perceivers and is influenced by perceptions of angry East Asian negotiators as tougher and more threatening than angry European American negotiators. Finally, Study 4 demonstrated that the effect emerges only when negotiators hold the stereotype of East Asians being emotionally inexpressive and European Americans being emotionally expressive. The authors discuss the implications for our understanding of culture, emotions, and negotiations. [DRM Winter 2014]

The Consequences of Faking Anger in Negotiations

Stéphane Côté, Ivona Hideg & Gerben van Kleef

Journal of Experimental Social Psychology 49(3): 453-463 (May 2013)

Past research has found that showing anger induces cooperative behavior from counterparts in negotiations. We build on and extend this research by examining the effects of faking anger by surface acting (i.e., showing anger that is not truly felt inside) on the behavior of negotiation counterparts. We specifically propose that surface acting anger leads counterparts to be intransigent due to reduced trust. In Experiment 1, surface acting anger increased demands in a face-to-face negotiation, relative to showing no emotion, and this effect was mediated by (reduced) trust. In Experiment 2, surface acting anger increased demands in a video-mediated negotiation, relative to showing no emotion, and this effect was explained by (reduced) trust, as in Experiment 1. By contrast, deep acting anger (i.e., showing anger that is truly felt inside) decreased demands, relative to showing no emotion, and this effect was explained by (increased) perceptions of toughness, consistent with prior research on the effects of showing anger in negotiations. The findings show that a complete understanding of the role of anger in negotiations requires attention to how it is regulated. In addition, the results suggest that faking emotions using surface acting strategies may generally be detrimental to conflict resolution.

The Advantages of Being Unpredictable: How Emotional Inconsistency Extracts Concessions in Negotiation

Marwan Sinaceur, Hajo Adam, Gerben A. Van Kleef & Adam D. Galinsky

Journal of Experimental Social Psychology 49: 498-508 (May 2013)

Integrating recent work on emotional communication with social science theories on unpredictability, the authors investigated whether communicating emotional inconsistency and unpredictability would affect recipients' concession-making in negotiation. They hypothesized that emotional inconsistency and unpredictability would increase recipients' concessions by making recipients feel less control over the outcome. In Experiment 1, dyads negotiated face-to-face after one negotiator within each dyad expressed either anger or emotional inconsistency (by

alternating between anger and happiness). In Experiment 2, participants received angry and/or happy messages from a simulated negotiation opponent. In Experiment 3, participants read a scenario about a negotiator who expressed either anger or emotional inconsistency by alternating between anger and disappointment. In all three experiments, emotional inconsistency induced recipients to make greater concessions compared to expressing a consistent emotion. [DRM Summer 2013]

Beyond Negotiated Outcomes: The Hidden Costs of Anger Expression in Dyadic Negotiation

Lu Wang, Gregory Northcraft & Gerben Van Kleef

Organizational Behavior and Human Decision Processes 119(1): 54-63 (September 2012)

Anger frequently arises when people negotiate conflicting interests. This paper reports two experimental studies that examined the effects of expressing anger during negotiations. Results showed that expressing anger at the negotiation table can have both positive and negative effects. On the one hand, expressing anger helps negotiators extract larger concessions from their opponents. Therefore, there are significant strategic benefits for anger expression. On the other hand, expressions of anger increase covert forms of retaliation by opponents. Given the insidious nature of covert relations, negotiators should take extra caution when expressing anger in negotiations. [DRM Summer 2013]

NEGOTIATION: POWER DYNAMICS

Social Motives in Bilateral Bargaining Games: How Power Changes Perceptions of Fairness

Paola Mallucci, Diana Yan Wu & Tony Haitao Cui

Journal of Economic Behavior & Organization 166: 138-152 (October 2019)

Power, a fundamental characteristic of social interactions, characterizes one's ability to influence others. Fairness, inherently a type of social preference, impacts distributive decision-making. How does power shape the perceptions of fairness in economic interactions? While previous research finds that power holders tend to take more, it remains unclear whether they are driven by selfish motives to exploit weaker counterparts or act upon the belief that powerful individuals deserve more. With an innovative modified ultimatum game, we analytically and experimentally study how power interplays with fairness consideration to affect bilateral bargaining. We concentrate on behaviors by the responders, to elicit their fairness preferences in response to shifts in power. We find strong evidence that changes in power can modify what is perceived as a fair division in the modified ultimatum game, and thus influence the distributive behaviors and outcomes. However, such an effect only arises when there is common knowledge about the power distribution between the two parties prior to their decision-making. In addition, we find that, while feedback on past decisions and outcomes can help players fine-tune their choices to avoid money left on the table in bargaining, learning from experience is not required for power to take effect.

How Perceived Power Influences the Consequences of Dominance Expressions in Negotiations

Scott S. Wiltermuth, Medha Raj & Adam Wood

Organizational Behavior and Human Decision Processes 146: 14-30 (May 2018)

Recent research (Willemuth, Tiedens, & Neale, 2015) has indicated that negotiators may use expressions of dominance and submissiveness to discover mutually-beneficial solutions and thereby create more joint value. We examined how the perceived relative power of negotiators who express dominance influences value claiming and value creation in negotiations. Negotiators with relatively little power benefitted by expressing dominance, as expressing dominance increased relatively low-power negotiators' abilities to claim value. In contrast, relatively powerful negotiators' expressions of dominance fueled value creation. Dyads in which only the relatively powerful negotiator expressed dominance created more value than did dyads in which neither, both, or only the relatively powerless negotiator expressed dominance. The coordination benefits attributable to dominance complementarity were therefore best achieved when there was congruence between a negotiator's perceived power and the power/status cues the negotiator sent through expressions of dominance.

Imaginary Alternatives: The Impact of Mental Simulation on Powerless Negotiators

Michael Schaerer, Martin Schweinsberg & Roderick Swaab

Journal of Personality and Social Psychology (March 2018 first online edition)

This research demonstrates that people can act more powerfully without having power. Researchers and practitioners advise people to obtain alternatives in social exchange relationships to enhance their power. However, alternatives are not always readily available, often forcing people to interact without having much power. Building on research suggesting that subjective power and objective outcomes are disconnected and that mental simulation can improve aspirations, the authors show that the mental imagery of a strong alternative can provide some of the benefits that real alternatives provide. The authors tested this hypothesis in one context of social exchange – negotiations – and demonstrate that imagining strong alternatives (vs. not) causes powerless individuals to negotiate more ambitiously. Negotiators reached more profitable agreements when they had a stronger tendency to simulate alternatives or when they were instructed to simulate an alternative. Mediation analyses suggest that mental simulation enhanced performance because it boosted negotiators' aspirations and subsequent first offers, but only when the simulated alternative was attractive. The authors used various negotiation contexts, which allowed identification of circumstances under which mental simulation may not provide any benefits to negotiators: mental simulation no longer helped when negotiators did not make the first offer, when their opponents simultaneously engaged in mental simulation, and even backfired in settings where negotiators' positions were difficult to reconcile (i.e., when negotiators had incompatible preferences). In sum, this research suggests that mental simulation can be a powerful tool for negotiators to improve their outcomes when they are in a disadvantaged position. [DRM Summer 2018]

Cooperation Through Communication: Teams and Individuals in Finitely Repeated Prisoners' Dilemma Games

John H. Kagel

Journal of Economic Behavior & Organization 146: 55-64 (February 2018)

For both two-person teams and individuals unrestricted communication between opponents in a finitely repeated prisoner dilemma game results in stage-one cooperation rates of between 95–100%. Content analysis of between opponent communication focuses on the increased earnings cooperation can achieve, with minimal discussion of punishment for failing to

cooperate. Restoring cooperation after an early stage-game defection typically requires compensating the aggrieved agent.

Blinded by Power: Untangling Mixed Results Regarding Power and Efficiency in Negotiation

Ricky S. Wong & Susan Howard

Group Decision and Negotiation 26(2): 215-245 (2017)

Negotiators are often advised to seek information about their counterparts' power. However, we know little about how such information affects negotiators' behaviours and outcomes. Study 1 considered dyadic negotiations in which negotiators have SYMMETRIC or ASYMMETRIC best alternatives to the negotiated agreement (BATNAs). It also examined the impacts of (a)symmetry and knowledge of a counterpart's BATNA on agreement efficiency (indexed by joint gains), and how knowledge alters negotiators' realised power (indexed by percentage of resource claimed) in BATNA-asymmetric negotiations. Studies 2 and 3 focussed on BATNA-asymmetric negotiations. Study 2 tested the mechanism by which knowledge affects efficiency. Study 3 considered the impacts of knowledge on equity concerns, perceived power and information exchange about preferences. The findings indicate the following: knowledge of BATNA asymmetries (rather than the existence of BATNA asymmetries) adversely affects agreement efficiency; this knowledge increases strong negotiators' focus on value claiming, judgement errors about counterparts' preferences, perceived power and realised power, but impedes their information-sharing behaviour about preferences. Their focus on value claiming mediates the relationship between knowledge and judgement errors, whereas judgement errors mediate the relationship between their focus on value claiming and agreement efficiency. Furthermore, knowledge of BATNA asymmetries leads to contrasting perceptions of fairness. Strong negotiators with knowledge believe that a fair agreement should reflect their power advantage; weak negotiators generally tend to judge fairness based on equality. Counterintuitively, knowing one's own strengths can lead to 'winning' a meagre prize and neglecting the opportunity for value creation by trading-off on negotiated issues.

Are the Powerful Really Blind to the Feelings of Others? How Hierarchical Concerns Shape Attention to Emotions

Eftychia Stamkou, Gerben A. van Kleef, Agneta H. Fischer & Mariska E. Kret

Personality and Social Psychology Bulletin 42(6): 755-768 (June 2016)

Paying attention to others' emotions is essential to successful social interactions. Integrating social-functional approaches to emotion with theorizing on the reciprocal nature of power, we propose that attention to others' emotions depends on concerns over one's power position and the social signal conveyed by the emotion. Others' anger signals attack—information relevant to high-power individuals who are concerned about the legitimacy or suitability of their position. On the contrary, others' fear signals vulnerability—information relevant to low-power individuals who are concerned about their unfair treatment within an illegitimate hierarchy. Accordingly, when power roles were illegitimately assigned or mismatched with one's trait power, leaders were faster at detecting the appearance of anger (Studies 1 and 2), slower at judging the disappearance of anger (Study 2), and more accurate in recognizing subordinates' anger, whereas subordinates were more accurate in recognizing leaders' fear (Study 3). Implications for theorizing about emotion and social hierarchy are discussed.

Cooperation in Multicultural Negotiations: How the Cultures of People with Low and High Power Interact

Shirli Kopelman, Ashley E. Hardin, Christopher G. Myers & Leigh Plunkett Tost

Journal of Applied Psychology 101(5): 721-730 (May 2016)

This study examined whether the cultures of low- and high-power negotiators interact to influence cooperative behavior of low-power negotiators. Managers from 4 different cultural groups (Germany, Hong Kong, Israel, and the United States) negotiated face-to-face in a simulated power-asymmetric commons dilemma. Results supported an interaction effect in which cooperation of people with lower power was influenced by both their culture and the culture of the person with higher power. In particular, in a multicultural setting, low-power managers from Hong Kong, a vertical-collectivist culture emphasizing power differences and group alignment, adjusted their cooperation depending on the culture of the high-power manager with whom they interacted. This study contributes to understanding how culture shapes behavior of people with relatively low power, illustrates how a logic of appropriateness informs cooperation, and highlights the importance of studying multicultural social interactions in the context of negotiations, work teams, and global leadership. [DRM Winter 2017]

Equity and Bargaining Power in Ultimatum Games

Ismael Rodriguez-Lara

Journal of Economic Behavior & Organization 130: 144-165 (October 2016)

This paper studies the extent to which offers and demands in ultimatum games are consistent with equity theory when there is a joint endowment to be distributed. Using a within-subject design, we also investigate the importance of the bargaining power by comparing the subjects' behavior in the ultimatum and the no-veto-cost game, which differ in the possible cost of responders rejecting the proposers' offer. Our findings suggest that proposers are willing to reward responders for their contribution to the joint endowment in any of the two games. As for responders, their behavior is consistent with equity theory only in the no-veto-cost game (in which a rejection is costless for them) when the game is first played. When the no-veto-cost game is played after the ultimatum game, we observe that the responders' demands usually exceed their contribution to the endowment. Finally, this paper reports evidence that the ultimatum and the no-veto-cost game differ in terms of efficiency and rejection rates.

Status Decreases Dominance in the West but Increases Dominance in the East

Ko Kuwabara, Siyu Yu, Alice J. Lee & Adam D. Galinsky

Psychological Science 27: 127-137 (February 2016)

What motivates people to exercise coercive power against others is an important question for understanding conflict. Research shows that in Western cultures, people are more likely to assert power by engaging in acts of dominance when they feel they are not sufficiently respected. The authors predicted that, in contrast, people in Asian cultures are more likely to use power when they feel respected and regarded as high status. This is because individualists view power as means toward personal ends (pursuing self-interest, affirming self-worth) but collectivists view power in regards to collective ends (reinforcing the existing social order). In experiments simulating groups tasks in which one person could impose punishment to enforce cooperation, having high status decreased the use of punishment by enforcers in the United States but

increased it in China and India. In the third experiment, Asian-Americans advocated punishment in different ways depending on whether they felt more Asian or American. [DRM Summer 2016]

The Power to Oblige: Power, Gender, Negotiation Behaviors, and Their Consequences

Noa Nelson, Ilan Bronstein, Rotem Shacham & Rachel Ben-Ari
Negotiation and Conflict Management Research 8(1): 1–24 (2015)

This study experimentally examined how power and gender affect negotiation behaviors and how those behaviors affect negotiated outcomes. One hundred and forty-six dyads, in four combinations of power and gender, negotiated compensation agreements. In line with gender stereotypes, male negotiators were more dominating and females more obliging and somewhat more compromising. However, partially challenging the common association of power and masculinity, high-power negotiators were less dominating and more collaborating, obliging and avoiding than their low-power opponents. Generally, feminine and high-power behaviors induced agreement while masculine and low-power behaviors enhanced distributive personal gain. [DRM Summer 2015]

NEGOTIATION: TRUST

Leader Power, Power Stability, and Interpersonal Trust

Marlon Mooijma, Wilco W. van Dijk, Eric van Dijk & Naomi Ellemers
Organizational Behavior and Human Decision Processes 152: 1-10 (May 2019)

We examine the conditions under which power decreases trust and the process by which this occurs. Three experiments and a field study revealed that occupying an unstable power position decreases trust as it raises power holders' concerns about losing power. We replicate this finding across studies differing in measures and design, using different samples, and using different measurements and manipulations of power, power stability, and trust. We discuss the organizational and theoretical implications of this work for current insights on power and trust.

Does Paying Back Pay Off? Effects of Reciprocity and Economic Outcomes on Trust Emergence in Negotiations

Dominik Sondern & Guido Hertel
Group Decision and Negotiation 28(6): 1053-1076 (December 2019)

In two studies ($n_1 = 359$; $n_2 = 455$), we investigated the effects of reciprocal counterpart behavior and economic negotiation outcomes on interpersonal trust in dyadic negotiations. Moreover, counterparts' power was considered as moderating factor. Using an experimental vignette approach, participants in both studies read a negotiation scenario, and were asked to imagine having conducted this negotiation. As part of the scenarios, we manipulated (a) counterpart's bargaining power (high–low; only Study 1), (b) positive (high–low) and (c) negative reciprocal counterpart behavior (escalating–high–low), and (d) the economic negotiation outcome for the actor (advantageous–equal–disadvantageous; only Study 2). Results show that participants reported higher trust in the counterpart after positive reciprocal counterpart behavior, whereas escalating negative reciprocal counterpart behavior and disadvantageous economic outcomes reduced trust. However, the negative effect of escalating counterpart behavior was rather low when counterpart power was high. Implications of these results are relevant for sustainable trust development and long-term business relationships.

Intergroup Emotional Exchange: Ingroup Guilt and Outgroup Anger Increase Resource Allocation in Trust Games

Danielle Shore, Magdalena Rychlowska, Job van der Schalk, Brian Parkinson & Antony Manstead

Emotion 19(4): 605-616 (June 2019)

Intergroup exchanges are an integral part of social life but are compromised when one group pursues its interests at another group's expense. The present research investigates whether expressing emotion can mitigate the negative consequences of such actions. We examine how emotions communicated by either an ingroup or outgroup member following an ingroup member's breach of trust affect other ingroup members' feelings of guilt and pride, and subsequent allocation of resources. In both studies, groups of participants played a two-round trust game with another group. In round one, they observed a member of their own group failing to reciprocate a trusting move by the outgroup. In Study 1 (N = 85), an outgroup member then communicated anger or disappointment, whereas in Study 2 (N = 164), an ingroup member then communicated happiness or guilt. Comparisons with no-emotion control conditions revealed that expressions of outgroup anger and ingroup guilt increased participants' allocations to an outgroup member in round two. The effect of an outgroup member's anger expression was mediated by participants' diminished feelings of pride about the ingroup action, whereas the effect of an ingroup member's guilt expression was mediated by participants' own feelings of guilt. Taken together, these findings support a social appraisal approach and highlight the roles that pride and guilt can play in shaping intergroup resource allocations.

Beyond Actions: Reparatory Effects of Regret in Intergroup Trust Games

Magdalena Rychlowska, Job van der Schalk, Jonathan Gratch, Eva Breiting, & Antony S.R. Manstead

Journal of Experimental Social Psychology 82: 74-84 (May 2019)

Intergroup trust is vital for cooperation and societal well-being, but is harder to establish than interpersonal trust. We investigate whether expressions of negative emotions, in particular regret, following economic decisions can shape intergroup trust. In each of three studies participants were members of a group playing a two-round trust game with another group. In the first round, they observed an outgroup member who acted fairly or unfairly towards the ingroup and then expressed positive (i.e., happiness) or negative (i.e., regret, unhappiness) emotions about this behavior. In the second round, participants played with another outgroup member. Emotions displayed by the outgroup representative following unfair behavior in round 1 influenced participants' allocations in round 2, which were higher following regret and unhappiness than following positive emotions. Thus, emotions expressed by one outgroup member affected interactions with other members who had not communicated emotions. Findings of Study 3 revealed that these effects were driven by regret increasing intergroup trust, rather than by happiness decreasing it. Moreover, participants' allocations were predicted by their perceptions of the extent to which the outgroup representative wished to change her behavior. Together, the findings reveal that regret expressions influence intergroup trust by attenuating the detrimental effects of unfair behavior.

Why Trust Out-Groups? The Role of Punishment Under Uncertainty

Xiaofei Pan & Daniel Houser

Journal of Economic Behavior & Organization 158: 236-254 (February 2019)

We conducted a hidden-effort trust game, in which we assigned subjects to one of two groups. The groups, which were formed through two different group formation processes, included a “social” group that required sharing and exchange among its members, and a “non-social” group that did not. Once assigned, subjects participated in the game with members from both groups, either with or without the opportunity to punish a trustee who may have defected on them. We found that for investors in the non-social group, the opportunity to punish a trustee worked to promote trust, but only when the trustee was a member of the other group. For the social group, the opportunity to punish had no effect on the investors’ trust decisions, regardless of the trustee’s group. We provide a theoretical framework to explain this asymmetric effect of punishment on trust. Our results suggest that groups with identities founded in sharing and exchange—a feature of globalized societies—may find it less necessary to engage in costly punishment. As a result, they may enjoy gains in economic efficiency.

Building Trust By Tearing Others Down: When Accusing Others of Unethical Behavior Engenders Trust

Jessica A. Kennedy & Maurice E. Schweitzer

Organizational Behavior and Human Decision Processes 149: 111-128 (November 2018)

We demonstrate that accusations harm trust in targets, but boost trust in the accuser when the accusation signals that the accuser has high integrity. Compared to individuals who did not accuse targets of engaging in unethical behavior, accusers engendered greater trust when observers perceived the accusation to be motivated by a desire to defend moral norms, rather than by a desire to advance ulterior motives. We also found that the accuser’s moral hypocrisy, the accusation’s revealed veracity, and the target’s intentions when committing the unethical act moderate the trust benefits conferred to accusers. Taken together, we find that accusations have important interpersonal consequences.

The Effects of Visuo-Spatial Perspective-Taking on Trust

Thorsten M. Erle, Janna K. Ruessmann & Sascha Topolinski

Journal of Experimental Social Psychology 79: 34-71 (November 2018)

Trust is a universally admired quality of interpersonal relations, be their nature private, professional, economic, or political. However, little is known about how trust can be fostered. One cognitive process that has been suggested as a precursor of trust is perspective-taking, but experimental evidence for a causal relation between the two constructs is missing. In the present article, we investigated whether perspective-taking increases trust in strangers and known interaction partners. Perspective-taking should lead to trust, because it has been shown to increase liking of other people, which itself is an important antecedent of trust. In three high-powered experiments (total $N = 612$), we investigated the effects of perspective-taking on trust using a novel visuo-spatial manipulation of perspective-taking. In Experiment 1, participants reported feeling more trust for a stranger after engaging in visuo-spatial perspective-taking compared to trials where they remained in their egocentric perspective. Experiment 2 supported the above-mentioned theoretical mechanism that trust in a stranger is increased due to liking and generalized the results from self-reported trust to behavioral trust within a trust game. Experiment 3 demonstrated an important boundary condition of this effect by showing that when the trustworthiness of another person is concurrently directly manipulated by giving participants information about how the other person has behaved in the past, the effects of perspective-taking on behavioral trust vanish, and while its effects on self-reported liking and trust remain intact,

they are small in comparison to the effects of direct trustworthiness manipulations on self-reported liking and trust.

Worthy of Swift Trust? How Brief Interpersonal Contact Affects Trust Accuracy

Oliver Schilke & Laura Huang

Journal of Applied Psychology 103(11): 1181-1197 (November 2018)

Organizational scholars have long underscored the positive consequences of trust, yet trust can also have dysfunctional effects if it is not placed wisely. Though much research has examined conditions that increase individuals' tendencies to trust others, we know very little about the circumstances under which individuals are likely to make more *accurate* trust decisions (i.e., neither misplace their trust nor refrain from trusting when doing so would have been beneficial), especially when they must do so rapidly and in the absence of an exchange history. Put simply, we have little understanding of what drives the accuracy of swift trust judgments. Building on relevant literatures, we propose that short episodes of prior interpersonal contact with a partner can increase the accuracy of swift trust decisions. Across two experimental studies, we demonstrate that brief interpersonal contact leads trustors to both (a) become more accurate in their trust decisions; and (b) engage in other-focused perspective taking, which mediates the effect of interpersonal contact on trust accuracy. We then show that it is specifically because of verbal cues, rather than visual cues, that brief interpersonal contact enables other-focused perspective taking, and in turn, trust accuracy (Study 3). We contribute to the literature on trust by examining trust accuracy (rather than mere trust levels), identifying the significant role of brief interpersonal contact, and revealing other-focused perspective taking as a key mechanism in accurate swift trust decisions.

The Influence of Visual Context on the Evaluation of Facial Trustworthiness

Marco Brambilla, Marco Biella & Jonathan B. Freeman

Journal of Experimental Social Psychology 78: 34-42 (September 2018)

Evaluation of facial trustworthiness is often thought to be based on facial features and relatively immune to visual context. However, we rarely encounter an isolated facial expression in the real world. In 3 Experiments using a mouse-tracking paradigm, participants were asked to categorize the trustworthiness of faces that were shown against either threatening, negative but unthreatening, or neutral scenes. Results showed that visual scenes systematically altered the categorization of facial trustworthiness. The trajectory of hand movements reflected the compatibility of facial trustworthiness and contextual threat cues of the scene. Trajectories were facilitated when facial cues and contextual cues were compatible (e.g., untrustworthy face in a threatening scene), and were partially attracted to the context-associated response when incompatible (e.g., trustworthy face in a threatening scene). Thus, the evaluation of facial trustworthiness involves dynamic updates of gradual integration of the face and the level of threat posed by the visual context.

Directed Trust and Trustworthiness in a Social Network: An Experimental Investigation

Yohanes E. Riyanto & Yeo X.W. Jonathan

Journal of Economic Behavior & Organization 151: 234-253 (July 2018)

Trust and trustworthiness are important in social relationships. Levels of trust and trustworthiness are likely to depend on "social" utility; the magnitude of which is influenced by the social context governing individual relationships. Social networks are an example of such a

social context. This paper investigates how social networks influence trust and trustworthiness by blending social network analysis with experimental economics methodology in two separate experiments. We show that trust and trustworthiness are higher for individuals who are more closely connected; in both cases, this relationship tapers off beyond second degree friendships. We also find that people tend to trust more central (popular) individuals. However, being more central (popular) has little influence on one's levels of trust and trustworthiness. We find these effects on trust to be only partially driven by the expectation of trustworthiness. We thus document evidence of a bias toward more closely connected and more popular individuals.

Understanding the Positive Effect of Financial Compensation on Trust After Norm Violations: Evidence From Fmri in Favor of Forgiveness

Tessa Haesevoets, David De Cremer, Alain Van Hiel & Frank Van Overwalle
Journal of Applied Psychology 103(5): 578-590 (May 2018)

Norm violations are ubiquitous in organizations and often result in tangible harm and a loss of trust. One possible response to enhance trust involves the provision of financial compensation. Unfortunately, little is known about the processes that underlie the effect of such a tangible response to increase trust. We employed techniques in cognitive neuroscience (functional magnetic resonance imaging) to examine these processes. Participants placed in the scanner played the role of recipient in a series of dictator games with different allocators who (unknown to them) were preprogrammed. An unequal division of resources was used as a norm violation that resulted in a financial loss. Afterward the inflicted harm was restored through equal financial compensation. Our neuroimaging data indicate that financial compensation activates forgiveness-related brain areas and that this activation mediates the positive effect of financial compensation on trust. We discuss the theoretical and managerial implications of using tangible responses to increase trust in organizational settings.

Group-Based Biases Influence Learning About Individual Trustworthiness

Marieke Vermue, Charles R. Seeger & Alan G. Sanfey
Journal of Experimental Social Psychology 77: 36-49 (July 2018)

People often have generalised expectations of trustworthiness about ingroup and outgroup members, based on previous direct and indirect experience with these groups. How do these prior biases interact with new experiences when learning about individual group members' trustworthiness? These three studies are the first to examine the effect of group-level biases on learning about individuals' trustworthiness. Participants from the Netherlands and the United Kingdom played iterated Trust Games with trustworthy and untrustworthy members of both ingroups and outgroups. We show that the influence of group membership on trust decisions depended on the valence of the interactions with individual group members. When interacting with trustworthy partners, people displayed outgroup favouritism throughout the game, investing higher in outgroup members than ingroup members. However, for untrustworthy partners, initial outgroup favouritism disappeared, and ingroup and outgroup members were equally distrusted by the end of the game. Our work suggests that when individual experience is integrated with group-based biases, group membership influences trust decisions over time, but mostly when experiences are positive. These findings are discussed in relation to complexity-extremity theory and previous work on learning in the Trust Game.

The Reputational Consequences of Generalized Trust

Anthony M. Evans & Philippe P. F. M. van de Calseyde

Personality and Social Psychology Bulletin 44(4): 492-507 (April 2018)

The present research examines the reputational consequences of generalized trust. High-trust individuals are seen as moral and sociable, but not necessarily competent. When controlling for other traits, there is a negative relationship between trust and perceived competence (Studies 1 and 2). Compared with optimism, generalized trust has stronger effects on morality and sociability (Study 2). Furthermore, people judge those who do not discriminate between trustworthy and untrustworthy groups (unconditional trustors) more negatively than those who only trust groups that are, in fact, trustworthy (conditional trustors). Unconditional trust and unconditional distrust are both viewed negatively (Study 3), even after controlling for attitudinal similarity (Study 4). Critically, both generalized trust and discriminant ability (i.e., conditional trust) have independent reputational benefits (Study 5). These studies suggest that generalized trust plays an important role in how we perceive and judge others.

Is Trust Always Better than Distrust? The Potential Value of Distrust in Newer Virtual Teams Engaged in Short-Term Decision-Making

Paul Benjamin Lowry, Ryan M. Schuetzler, Justin Scott Giboney & Thomas A. Gregory

Group Decision and Negotiation 24(4): 723-752 (July 2015)

The debate on the benefits of trust or distrust in groups has generated a substantial amount of research that points to the positive aspects of trust in groups, and generally characterizes distrust as a negative group phenomenon. Therefore, many researchers and practitioners assume that trust is inherently good and distrust is inherently bad. However, recent counterintuitive evidence obtained from face-to-face (FtF) groups indicates that the opposite might be true; trust can prove detrimental, and distrust instrumental, to decision-making in groups. By extending this argument to virtual teams (VTs), we examined the value of distrust for VTs completing routine and non-routine decision tasks, and showed that the benefits of distrust can extend to short-term VTs. Specifically, VTs seeded with distrust significantly outperformed all control groups in a non-routine decision-making task. In addition, we present quantitative evidence to show that the decision task itself can significantly affect the overall levels of trust/distrust within VTs. In addition to its practical and research implications, the theoretical contribution of our study is that it extends to a group level, and then to a VT setting, a theory of distrust previously tested in the psychology literature in the context of completing non-routine and routine decision tasks at an individual level.

Gender Differences in Trust Dynamics: Women Trust More Than Men Following a Trust Violation

Michael P. Haselhuhn, Jessica A. Kennedy, Laura J. Kray, Alex B. Van Zant & Maurice E. Schweitzer

Journal of Experimental Social Psychology 56: 104-109 (January 2015)

Despite the importance of trust for efficient social and organizational functioning, transgressions that betray trust are common. We know little about the personal characteristics that affect the extent to which transgressions actually harm trust. In this research, the authors examine how gender moderates responses to trust violations. Across three studies, they demonstrate that following a violation, women are both less likely to lose trust and more likely to restore trust in a transgressor than men. Women care more about maintaining relationships than

men, and this greater relational investment mediates the relationship between gender and trust dynamics. These findings deepen our understanding of gender differences in dispute resolution settings, particularly in contexts in which negotiators must work together to reach mutually-beneficial outcomes. In these situations, women's relatively persistent trust may enable them to overlook minor misunderstandings or initial competitive posturing and collaborate with the other party to reach a creative solution, whereas men may lose trust quickly and be less willing to collaborate with a counterpart after a minor violation. Given the myriad benefits of high trust, perhaps the best solution is for women and men alike to build trust, draw careful inferences from violations, and stand ready to restore trust. [DRM Winter 2015]

What Is Typical Is Good: The Influence of Face Typicality on Perceived Trustworthiness

Carmel Sofer, Ron Dotsch, Daniel H. J. Wigboldus & Alexander Todorov
Psychological Science 26(1): 39-47 (January 2015)

The role of face typicality in face recognition is well established, but it is unclear whether face typicality is important for face evaluation. Prior studies have focused mainly on typicality's influence on attractiveness, although recent studies have cast doubt on its importance for attractiveness judgments. Here, we argue that face typicality is an important factor for social perception because it affects trustworthiness judgments, which approximate the basic evaluation of faces. This effect has been overlooked because trustworthiness and attractiveness judgments have a high level of shared variance for most face samples. We show that for a continuum of faces that vary on a typicality-attractiveness dimension, trustworthiness judgments peak around the typical face. In contrast, perceived attractiveness increases monotonically past the typical face, as faces become more like the most attractive face. These findings suggest that face typicality is an important determinant of face evaluation.

Interpersonal Trust Within Negotiations: Meta-Analytic Evidence, Critical Contingencies, and Directions For Future Research

Dejun Tony Kong, Kurt T. Dirks & Donald L. Ferrin
Academy of Management Journal 57(5): 1235-1255 (October 2014)

Trust has long been recognized, by scholars and practitioners alike, as an important factor for negotiation success. However, there has been little effort to date to empirically review or theoretically synthesize the research on trust in the context of negotiations. We present a social exchange framework that describes the processes through which trust influences negotiation behaviors and outcomes. We identified three critical contingencies that modified the effects of trust on negotiation behaviors and outcomes. A meta-analysis on a sample of 38 independent studies provided considerable support for the model, and also confirmed the importance of the three contingencies for understanding the effects of trust. The framework and accompanying empirical evidence provide a necessary theoretical and empirical integration of the trust and negotiation literatures. Based on the theory and meta-analytical findings, we identified critical gaps and limitations in existing research, and we propose a research agenda to address key theoretical, empirical, and methodological issues identified by our framework and review.

The Experience Versus the Expectations of Power: A Recipe For Altering the Effects of Power on Behavior

Derek D. Rucker, Miao Hu & Adam D. Galinsky
Journal of Consumer Research 41(2): 381-396 (August 2014)

Power transforms consumer behavior. This research introduces a critical theoretical moderator of power's effects by promoting the idea that power is accompanied by both an experience (how it feels to have or lack power) and expectations (schemas and scripts as to how those with or without power behave). In some cases, the psychological experience of power predisposes people to behave one way, whereas attention to the expectations of power suggests behaving in another way. As a consequence, power's effects for consumer behavior can hinge on consumers' focus. Specifically, a focus on the experience or expectations of power critically moderates how power affects both information processing and status seeking. However, as the experience of power incites a desire to act, and the powerful are expected to act, power produces more action regardless of focus. These findings provide a new lens on power and have important implications for consumer behavior.

OMBUDS

Australia's Financial Ombudsman Service: An Analysis of its Role in the Resolution of Financial Hardship Disputes

Paul Ali, Evgenia Bourova, Joseph Horbec & Ian Ramsay
Conflict Resolution Quarterly 34(2): 163-188 (2016)

The Financial Ombudsman Service (FOS) was established in 2008 to resolve disputes between Australian consumers and financial service providers. This article outlines the role of FOS in resolving disputes under the statutory protections for Australians in financial hardship. This article also sets out the results of a study of data collected by FOS in relation to financial hardship disputes resolved between 2010 and 2014. This data highlights the importance of FOS in a context where most disputes are resolved outside the courts, particularly in the aftermath of the global financial crisis, when the number of financial hardship disputes rose significantly.

Dispute Resolution Outside of Courts: Procedural Justice and Decision Acceptance Among Users of Ombuds Services in the UK

Naomi J. Creutzfeldt & Ben Bradford
Law & Society Review 50(4): 985-1016 (December 2016)

Attitudes towards legal authorities based on theories of procedural justice have been explored extensively in the criminal and civil justice systems. This has provided considerable empirical evidence concerning the importance of trust and legitimacy in generating cooperation, compliance and decision acceptance. However, not enough attention has been paid to attitudes towards institutions of informal dispute resolution. This paper asks whether the theory of procedural justice applies to the alternative dispute resolution (ADR) context, focusing on ombuds services. What are the predictors of perceptions of procedural justice during the process of dealing with an ombuds, and what factors shape outcome acceptance? These questions are analyzed using a sample of recent ombuds users. The results indicate that outcome favorability is highly correlated with perceived procedural justice, and both predict decision acceptance. [DRM Winter 2017]

ONLINE DISPUTE RESOLUTION

Utah Online Dispute Resolution Platform: A Usability Evaluation and Report

Stacy Butler, Sarah Mauet, Christopher L. Griffin, Jr. & Mackenzie S. Pish

Available online at: <https://law.arizona.edu/utah-online-dispute-resolution-platform-usability-evaluation-and-report> (alternate link: <https://ssrn.com/abstract=3696105>) (November 2020)

The Innovation for Justice (i4J) Program at the University of Arizona James E. Rogers College of Law, supported by the Utah judiciary and the Pew Charitable Trusts, released empirical findings and recommendations from observation-based usability testing of Utah's online dispute resolution (ODR). The study used two research strategies over three evaluation rounds to identify the most critical bottlenecks in the Utah ODR process and generate five usability-related recommendations.

First, test participants had difficulty transitioning from case documents to the platform and experienced accessibility issues once on the homepage. Redesigned documents helped participants more easily navigate to the website by highlighting and restructuring key information. Second, participants initially struggled to complete the registration and login process once on the platform. The evaluation recommended several changes (e.g., reducing the number of registration steps, using verification codes) to mitigate user confusion. Third, participants faced significant obstacles when working with documents online. The team found that deploying familiar upload icons and instituting a simplified review of settlement documents increased accuracy and fairness. Fourth, participants were frustrated by their inability to quickly find information about and help with ODR. Further testing yielded recommendations for restructuring help information (e.g., emphasizing the FAQ link) and creating an accessible overview video. Finally, the research team encouraged Utah to clarify legal information on the platform so that users would understand their rights and feel confident. Testing showed that defining key terms, helping customize legal answers, and clarifying the role of the ODR Facilitator would be welcome changes.

Nearly every study participant preferred using a website over appearing in court to resolve a small claims debt collection dispute. They also valued accessibility and transparency in the process. This research will help legal stakeholders in Utah and elsewhere ensure that ODR technologies are accessible to and equitable for all users. [DRM Winter 2021]

Online Dispute Resolution in the United States

ABA Center for Innovation (September 2020)

Available at

<https://www.americanbar.org/content/dam/aba/images/centerforinnovation/odrvisualizationreport.pdf>

The ABA Center for Innovation received a grant to survey the extent of Court-Annexed Online Dispute Resolution in the United States as it existed as of the end of 2019. Data visualizations and information can be found in the report.

Judicial Perspectives on ODR and Other Virtual Court Processes

Lise Embley

Joint Technology Committee Quick Response Bulletin

Available at: https://www.ncsc.org/data/assets/pdf_file/0023/34871/2020-05-18-Judicial-Perspectives.pdf (May 18, 2020)

Just a few months ago, most US courts significantly lagged behind banking, education, retail, healthcare, and other industries in the use of technology. Until mid-March 2020, that is, when US courts suddenly, overwhelmingly embraced some uses of technology, almost overnight, because they had to. Virtual hearings and ODR are opening up new possibilities that are not only keeping courts functioning during the pandemic, but also showing promise in helping resolve seemingly intractable access to justice issues. When the dangers of the COVID-19 virus have passed, courts anticipate a surge of filings. ODR and virtual hearings can “scale” to meet surges in demand in ways that traditional processes cannot. Out of necessity in response to an unprecedented pandemic, courts are boldly embracing changes that are bringing more court processes into line with available technologies and public expectations.

Building Trust Online: The Realities of Telepresence for Mediators Engaged in Online Dispute Resolution

Susan Nauss Exon & Soomi Lee

Stetson Law Review 49(1): 109-147 (2019)

The ability to engender trust is a critical skill for mediators, especially when conducting online dispute resolution. The purpose of this empirical research is to examine the extent to which parties can trust a mediator when communicating in a video-collaborated environment known as telepresence. Will parties who have never met a mediator prior to the mediation and who communicate solely using telepresence find the mediator to be trustworthy and trust the mediator to the same extent as those parties who communicate face-to-face with the mediator? Will factors such as age, gender, and educational level significantly affect an individual’s ability to trust a mediator? Does an individual’s familiarity with, and use of, a video-collaborated environment such as Skype, FaceTime, or a similar platform affect an individual’s ability to trust a mediator? What is the impact of an individual’s predisposition to trust? The authors analyzed data from a small-scale experimental study, and in this research project conclude that there is no statistically significant difference in the extent to which participants trust a mediator in all contexts and factors. The same result applies to trustworthiness except for one exception regarding the effect of a pre-disposition to trust. [DRM Spring 2020]

Digital Justice: HMCTS Data Strategy and Delivering Access to Justice

Legal Education Foundation

<https://research.thelegaleducationfoundation.org/blog/digital-justice-hmcts-data-strategy-and-delivering-access-to-justice> (September 2019)

Report by TLEF research director Dr Natalie Byrom sets out a 29-point plan for tackling ‘digital exclusion’, and ensuring the government’s £1bn court reform programme delivers access to justice for all court-users. Recommendations follow Dr Byrom’s three -month secondment to HMCTS as an expert adviser on open data. The grant-giving charity The Legal Education Foundation has today published a report, setting out a blueprint for evaluating the impact of the government’s online courts programme, and for ensuring the needs of all court users are understood and fully met in the move to digital justice. The report came about after TLEF’s director of research and learning, Dr Natalie Byrom, was invited to act as an independent adviser to HM Courts and Tribunals Service’s court reform programme by its chief executive Susan Acland-Hood.

Are You Angry (Happy, Sad) or Aren't You? Emotion Detection Difficulty in Email Negotiation

Christoph Laubert & Jennifer Parlamis

Group Decision and Negotiation 28(2): 377-413 (April 2019)

This research investigates consistency of emotion detection in email negotiations. Conveying and detecting emotions in negotiation is important because emotions can function strategically. Therefore, this research systematically explores in four separate studies how consistently individuals detect discrete emotions in text-based (email) negotiations. Study 1 compared the ratings from two coders using a high quantity of thought units ($n = 1317$) and a negative bargaining zone negotiation scenario. In studies 2 and 3, three different negotiation scenarios were explored, first on a thought unit level and then on a message unit level using a hierarchical emotion coding scheme. In all three studies, coders' perceptions were also compared with the text analysis program LIWC. Study 4 compared coding from seven of the actual negotiators with that of an independent coder and a computerized text program. All four studies found low emotion recognition consistency across 14 different coders with only one negotiation scenario in study 3 showing a moderate level of consistency. Comparisons of computerized coding with human coders did not show improved agreement. High amounts of contrary coding by independent coders were also found. Our research makes an important contribution to the literature by challenging the common assumption that emotions can be reliably detected in email negotiation. Factors that might influence more consistent emotion recognition and conveyance as well as implications for practice and future research are discussed.

Zeuthen–Hicks Bargaining in Electronic Negotiations

Rudolf Vetschera

Group Decision and Negotiation 28(2): 255-274 (April 2019)

We apply the Zeuthen–Hicks bargaining model in an empirical study of electronic negotiations. Using a typology of bargaining steps based on that model, we study to what extent actual steps conform to the predictions of the model, and the effects of conformity with the model on bargaining outcomes. Results indicate that the model predicts bargaining steps only slightly better than chance, but that steps conforming to the model lead to outcomes that are closer to the efficient frontier, closer to the Nash bargaining solution, and provide higher utility to the party using such steps.

The State of State Courts: A 2018 NCSC Public Opinion Survey

<https://www.pewtrusts.org/en/research-and-analysis/articles/2019/03/18/public-sees-benefits-to-resolving-civil-court-cases-online> (March 2019)

Among Many Other Findings: Those surveyed perceived ODR to be efficient and cost-effective but not necessarily more fair. As courts adopt such online systems, leaders must weigh how to use the technology to streamline court processes without sacrificing fairness. Nearly two-thirds of respondents—65 percent—described ODR as cost-effective for both users and taxpayers, while 55 percent said it would be more efficient than traveling to a courthouse in person. However, a majority expressed the view that sessions at the courthouse are easier to understand (65 percent), better for people without lawyers (56 percent), and more fair and impartial (54 percent), compared with ODR.

No Rage Against the Machine: How Computer Agents Mitigate Human Emotional Processes in Electronic Negotiations

Marc T. P. Adam, Timm Teubner & Henner Gimpel

Group Decision and Negotiation 27(4): 543-571 (August 2018)

With the proliferation of information technology and artificial intelligence in society, human users have started to engage in social interactions with computer agents. In this study, we conducted a laboratory experiment in which neurophysiological measurements were used to investigate the effect of computer agents on the affective processes and behavior of human negotiators. Participants engaged in alternating-offer bargaining over the partition of a pie with either human or computer counterparts and under different levels of urgency to reach an agreement. Overall, our data show that the subjects claimed significantly higher proportions for themselves when they made opening offers to computer agents than when bargaining with human counterparts, regardless of the degree of urgency in the negotiation. However, when the subjects responded to computer-issued offers the picture was more complex. Whereas under high-level urgency, the subjects were more likely to accept offers made by computer agents than by human counterparts, we observed the opposite effect for low-level urgency, where they were less likely to accept the offers of computer agents. In combination, these behavioral patterns lead to the use of computer agents yielding an increase in economic efficiency. Further, the subjects exhibited less emotionally charged behavior when facing computer agents than when facing human counterparts, as the intensity of affective processes was lower and the relationship between arousal and offer acceptance was observable only when the counterparts were human. The results of our study shed light on the potential benefits and intricacies of employing computer agents in electronic negotiations.

The Effect of Screen Size and E-Communication Richness on Negotiation Performance

Terri R. Kurtzberg, Sanghoon Kang & Charles E. Naquin

Group Decision and Negotiation 27(4): 573-592 (August 2018)

Using an empirical study, this paper investigated how each screen size and different presentation modes (video or text-only) can trigger meaningful differences when interacting with a partner in a negotiation. In a simulated multi-issue negotiation between a buyer and a seller, participants were instructed to communicate through either a large (laptop) or small (mobile phone) screen in either a video conversation or a text-based communication. The findings revealed that (a) negotiators communicating through a large screen performed better than negotiators interacting via small screen; (b) negotiators communicating through video conversation performed better than negotiators interacting via text-based communication; (c) negotiators communicating through video conversation formed higher levels of trust and satisfaction than negotiators interacting via text-based communication; and (d) negotiators communicating through video conversations over large screens achieved the highest joint outcome. Implications for the use of technology during negotiations is discussed, with attention given to the need to preserve more naturalistic cues through larger screens and the use of video conversations for best effect.

Seeing the World Through the Other's Eye: An Online Intervention Reducing Ethnic Prejudice

Gábor Simonovits, Gábor Kézdi & Péter Kardos

American Political Science Review 112(1): 186-193 (February 2018)

We report the results of an intervention that targeted anti-Roma sentiment in Hungary using an online perspective-taking game. We evaluated the impact of this intervention using a randomized experiment in which a sample of young adults played this perspective-taking game, or an unrelated online game. Participation in the perspective-taking game markedly reduced prejudice, with an effect-size equivalent to half the difference between voters of the far-right and the center-right party. The effects persisted for at least a month, and, as a byproduct, the intervention also reduced antipathy toward refugees, another stigmatized group in Hungary, and decreased vote intentions for Hungary's overtly racist, far-right party by 10%. Our study offers a proof-of-concept for a general class of interventions that could be adapted to different settings and implemented at low costs.

Ask in Person: You're Less Persuasive Than You Think Over Email

M. Mahdi Roghanizad & Vanessa K. Bohns

Journal of Experimental Social Psychology 69: 223-226 (March 2017)

Research has found people underestimate the likelihood strangers will comply with their direct requests (Bohns, 2016; Flynn & Lake (Bohns), 2008). Here we argue this “underestimation-of-compliance effect” may be limited to requests made face-to-face. We find when making direct requests over EMAIL, requesters instead OVERESTIMATE compliance. In two studies, participants asked strangers to comply with requests either face-to-face or over email. Before making these requests, requesters estimated the number of people they expected to say “yes”. While requesters underestimated compliance in face-to-face contexts, replicating previous research, they overestimated compliance in email contexts. Analyses of several theorized mechanisms for this finding suggest that requesters, anchored on their own perspectives, fail to appreciate the suspicion, and resulting lack of empathy, with which targets view email requests from strangers. Given the prevalence of email and text-based communication, this is an extremely important moderator of the underestimation-of-compliance effect. [DRM Summer 2017]

Team Decision Making in Virtual and Face-to-Face Environments

Thomas O'Neill, Samantha Hancock, Katarina Zivkov, Nicole Larson & Stephanie Law
Group Decision and Negotiation 25(5): 995-1020 (September 2016)

We conducted a laboratory study on 65 teams performing a decision-making task. The two experimental manipulations involved the use of different communication media and decision frames. The decision frame manipulation involved informing the team to choose the demonstrably correct solution versus the solution that seemed most likely. These factors interacted to reveal novel insights about their multiplicative effects on decision processes and team psychological states. Further, main effects of the communication medium were found for team psychological states and decision behavior. Results suggest that virtual teams were at a disadvantage when the task was framed as having a demonstrably correct solution. Conversely, face-to-face teams were more effective, particularly when told that the task had a demonstrably correct solution. Face-to-face teams were more effective on all decision behaviors. Media synchronicity theory serves as a unifying framework to contextualize this research in the literature.

Mind the Medium: A Qualitative Analysis of Email Negotiation

Jennifer D. Parlamis & Ingmar Geiger

Group Decision and Negotiation 24(2): 359-381 (March 2015)

Using qualitative analysis of email transcripts, this research investigated the behavioral differences in more or less successful email negotiations. We hypothesized that proactive and reactive medium management, relationship building, positive and negative emotion transmission along with integrative and distributive behaviors would influence joint gain and subjective value in email negotiation dyads. The hypotheses were tested on simulated buyer-seller email negotiations (n = 52 dyads) from a US and a German university. Ordinary least squares regression revealed that value creating behaviors and the total amount of communication increased joint gain while reactive medium management decreased joint gain. Controlling for individual gain and individual target profit, negotiators' global subjective value of the negotiation was negatively impacted by distributive negotiation behaviors and reactive medium management, as revealed by hierarchical linear modeling. Practical implications and future research are discussed.

“I Can't Lie To Your Face”: Minimal Face-To-Face Interaction Promotes Honesty

Alex B. Van Zant & Laura J. Kray

Journal of Experimental Social Psychology 55: 234–238 (2014)

Scholars have noted that face-to-face (FTF) interaction promotes honesty because it provides opportunities for conversation in which parties exchange information and build rapport. However, it is unclear whether FTF interaction promotes honesty even in the absence of opportunities for back-and-forth conversation. We hypothesized a minimal interaction effect whereby FTF interaction promotes honesty by increasing potential deceivers' consideration of their own moral-interest. To test this account of how FTF interaction may promote honesty, we used a modified version of the deception game (Gneezy, 2005). We found that people were more honest when communicating FTF as opposed to through an intermediary. While FTF interaction tended to promote honesty irrespective of whether it occurred prior to or during the game, the effect was more pronounced when it occurred during the game. The effect of in-game communication medium was mediated by the activation of potential deceivers' moral-interest. We also ruled out alternate accounts involving interpersonal liking, expected counterpart trust, and retaliation fear as honesty-promoting mechanisms. Furthermore, because these effects were not moderated by whether participants had been visually identified during a pre-game interaction, we suggest that our effects are distinct from theoretical accounts involving anonymity.

Media Effects on the Formation of Negotiator Satisfaction: The Example of Face-to-Face and Text Based Electronically Mediated Negotiations

Ingmar Geiger

Group Decision and Negotiation 23(4): 735-763 (July 2014)

Recently, scholars have highlighted the importance of subjective negotiation outcomes such as negotiator satisfaction for future negotiations and the relationship between negotiators. This study considers the major antecedents of satisfaction formation in negotiation and analyses how the communication medium, i.e. the face-to-face (FTF) and the text based electronically mediated (TBEM) mode, influence satisfaction formation. Drawing on grounding in communication (Clark and Brennan in Perspectives on socially shared cognition. American

Psychological Association, Washington DC, pp 127–149, 1991), hypotheses are developed and tested in an experimental gaming simulation in which graduate students negotiated in $n = 52$ dyads. The empirical analysis supports the notion that the communication medium has a mediated and a moderating effect on negotiator satisfaction. Aspirations, individual profit and positive relational messages mediate the medium's effect on satisfaction. Furthermore, the impact of contentious behaviour and positive relational messages on negotiator satisfaction is stronger in TBEM than in FTF negotiations. This study also contributes to the wider negotiation literature by employing a context-rich gaming simulation for experimental purposes.

Far From Eye, Far From Heart: Analysis of Graphical Decision Aids in Electronic Negotiation Support

Johannes Gettinger & Sabine T. Koeszegi

Group Decision and Negotiation 23(4): 787-817 (July 2014)

Information is probably the most relevant element upon which decision makers base their judgments. Empirical evidence has demonstrated that the way information is presented inevitably influences human cognition and, consequently, the (electronically supported) decision making process. Presently, we lack an analytical approach of studying graphical decision aids implemented in electronic negotiation support systems (NSS). Therefore, the aim of this paper is to identify relevant factors for graphical decision aids in NSS, which provides negotiators with an analytical support approach. Secondly, based on a developed framework, we intend to categorize and analyze existing and newly developed graphical decision aids. Last, we develop research propositions showing avenues for future investigations in the field of graphical decision aids.

Signaling Dominance in Online Negotiations: The Role of Affective Tone

Liuba Y. Belkin, Terri R. Kurtzberg & Charles E. Naquin

Negotiation and Conflict Management Research 6(4): 285-304 (November 2013)

Do people interpret emotional expressions as signals of power in the limited-cues environment of electronic negotiations? This work examines how expressions of anger and happiness in online negotiation influence perceptions of dominance and negotiation outcomes. The results indicate that expressed anger positively influences perceptions of partner dominance and subsequent individual gains. On the other hand, displays of happiness may signal the opposite (i.e., powerlessness). Happiness hurt the bottom line when the happy-message sender actually had more power, potentially because of a mismatch between an original perception of powerfulness and a signal of powerlessness, but was beneficial when the message sender actually held less power than the opponent. The results suggest that one needs to be careful with affective displays in online negotiation contexts, because the ramifications of those expressions (including effects on outcomes) may depend on the partner's expectations. [DRM Summer 2014]

The Effect of Red Background Color on Willingness-to-Pay: The Moderating Role of Selling Mechanism

Rajesh Bagchi & Amar Cheema

Journal of Consumer Research 39(5): 947-960 (February 2013)

The authors investigate the effect of red backgrounds on willingness-to-pay in auctions and negotiations. Data from eBay auctions and the lab show that a red (vs. blue) background elicits higher bid jumps. By contrast, red (vs. blue) backgrounds decrease price offers in

negotiations. An investigation of the underlying process reveals that red color induces aggression through arousal. In addition, the selling mechanism - auction or negotiation - alters the effect of color by focusing individuals on primarily competing against other bidders (in auctions) or against the seller (in negotiations). Specifically, aggression is higher with red (vs. blue or gray) color and, therefore, increases bid jumps in auctions but decreases offers in negotiations.

PERSUASION AND DECISION-MAKING

Cooperative Versus Competitive Interactions and In-Group Bias

Xue Xu, Jan Potters & Sigrid Suetens

Journal of Economic Behavior and Organization 179: 69-79 (November 2020)

We study the effect of interpersonal but impersonal interactions on in-group bias in allocational choices. Before the elicitation of the choices, individuals either engage in a cooperative or competitive interaction, or in no interaction at all. We find that a cooperative interaction eliminates any in-group bias as compared to the case where there is no interaction, and even introduces relatively more pro-sociality with respect to out-group. A competitive interaction reduces pro-sociality in general, irrespective of whether others are in- or out-group.

The Impact of Resource Scarcity on Price-Quality Judgments

Hanyong Park, Ashok K Lalwani & David H Silvera

Journal of Consumer Research 46(6): 1110–1124 (April 2020)

Consumers routinely encounter situations in which they perceive that resources are scarce. However, little is known about how this perception influences consumers' use of price in their purchase decisions. The present research seeks to fill this gap by examining the link between scarcity and the tendency to use price to judge product quality, and the mechanisms underlying that link. Six studies (and five more reported in the [web appendix](#)) using multiple product categories and a variety of operationalizations of both scarcity and price-quality judgments show that scarcity decreases consumers' tendency to use price to judge product quality. This occurs because scarcity induces a desire to compensate for the shortage and seek abundance, and thereby reduces an individual's general categorization tendency (because categorizing brings about a feeling of reduction); this, in turn, hinders consumers from viewing products as belonging to different price-tier groups, and thus lowers their tendency to use price as a basis for judging product quality. Boundary conditions for the proposed effect are also identified. The current research makes fundamental contributions to the literatures on scarcity, price-quality judgments, and categorization.

The Opposite Effects of High Estimate Uncertainty on Jurors' Judgments and on Attorneys' Settlement Negotiations in Auditor Negligence Litigation

Jeffrey S. Pickerd, M. David Piercey

Available on SSRN at: <https://ssrn.com/abstract=3587110> (April 2020)

The majority of audit litigation research has focused on juror judgments. We examine how jurors' negligence judgments and attorneys' out-of-court settlements are differently impacted by two features of a materially misstated accounting estimate — the amount of estimate uncertainty and whether the misstated account is disaggregated into its own line-item or aggregated with other accounts into a single financial statement line-item. We find that jurors and attorneys react to estimate uncertainty in opposite directions under common conditions.

Specifically, jurors hold auditors more responsible for misstatements of lower estimate uncertainty when the misstated account is disaggregated, as opposed to misstatements that are of higher uncertainty and/or aggregated with other, clean accounts. However, attorneys negotiate auditor settlements under the incorrect assumption that jurors will hold auditors more responsible for failing to prevent misstatements of higher uncertainty. Our results illustrate that accounting research should not focus solely on juror judgments in the study of how specific factors impact auditor liability, and that attorneys would benefit from a better understanding of juror decision making.

Strategic Storytelling: When Narratives Help Versus Hurt the Persuasive Power of Facts

Rebecca J. Krause & Derek D. Rucker

Personality and Social Psychology Bulletin 46(2): 216-227 (February 2020)

Stories are known to be powerful persuasive devices. Stories can capture attention, evoke emotion, and entrance listeners in a manner that reduces resistance to a message. Given the powerful persuasive potential of stories, one might deduce that it is best to embed one's facts within a story. In contrast to this perspective, the present research suggests that coupling facts with stories can either enhance or undermine persuasion. Specifically, to understand *when* facts benefit from the use of stories, this work provides a deeper examination of how counterargument reduction—a common explanation for the unique persuasive capabilities of stories—operates. Across three experiments, evidence is found for when it is more effective to embed facts within a story versus to use facts alone.

Better Off and Far Away: Reactions to Others' Outcomes Depends on Their Distance

Daniel A. Yurkin, Nira Liberman, Cheryl Wakslak & Yaacov Trope

Organizational Behavior and Human Decision Processes 156: 13-23 (January 2020)

Research shows that people's satisfaction with outcomes they receive (e.g., a prize) is influenced by their standing relative to targets of comparison. Here we investigated whether the similarity of the comparison target influences which outcome features most strongly affect satisfaction. Drawing on Construal Level Theory, which contends that people use high level construals to transcend psychological distance, we show that comparing to more dissimilar targets increases the salience of high- versus low-level features of outcomes. Experiment 1 demonstrates that people seek out high-level information when they believe they are comparing to psychologically distant others. Experiments 2–4 show that high-level information, relative to low-level information, exerts greater weight on satisfaction when the comparison target is far versus near. Experiment 5 shows these effects can be explained by variations in construal level. Overall, this research highlights the importance of distant others in influencing people's sense of relative deprivation.

The Adversarial Mindset

Dan Simon, Minwoo Ahn, Douglas N. Stenstrom & Stephen J. Read

In *Psychology, Public Policy & Law* (The American Psychological Association, 2020)

Available at SSRN:

https://privpapers.ssrn.com/sol3/papers.cfm?abstract_id=3573099&dgcid=ejournal_html_email_negotiation:dispute:resolution:ejournal_abstractlink

Many social outcomes are reached by means of competitions between opposing actors. While the positive effects of competition are beyond dispute, this paper contends that

competitive situations also trigger a particular psychological mindset that can distort contestants' judgment and lead to suboptimal courses of action. The paper presents a theoretical framework that consists of a myside bias, by which people adopt a self-serving view of the competition, evaluate themselves favorably, and evaluate their counterpart unfavorably. The framework also proposes the construct of otherside bias, by which people impute to their counterparts distortions that are similar, but opposite, to their own. The combined effect of these biases is to fuel conflict-promoting behavior. Next the paper presents two experiments designed to test this framework. Using minimalistic experimental treatments, the studies find that participants assigned to adversarial roles display the myside and otherside biases.

The primary objective of this paper is to offer a comprehensive account of the psychological mindset evoked by competitive situations. The authors integrate findings established across a variety of research fields into a unifying theoretical framework and demonstrate their joint impact on this important domain of human judgment and behavior. Second, they propose that coherence-based reasoning serves as the cognitive backbone of the framework, in that the array of judgments are intricately interconnected and organized in a coherence maximizing representational structure both within and between the myside and otherside biases. Third, they discuss the framework's implications for a variety of legal domains, including negotiations, litigation, expert testimony, and police investigations. [DRM Winter 2021]

Take it or Leave it: Experimental Evidence on the Effect of Time-Limited Offers on Consumer Behaviour

Robert Sugden, Mengjie Wang & Daniel John Zizzo

Journal of Economic Behavior and Organization 168: 1-23 (December 2019)

Making time-limited offers is a common retail pricing strategy. Economic theory implies that such offers inhibit price search, making markets less competitive. We investigate experimentally whether this effect is intensified by behavioural factors – specifically, feedback-conditional regret, reduced decision quality due to time constraints, and aversion to small-scale risk. Participants choose from a sequence of alternative price offers, one of which might be time-limited, under various conditions. These price search problems were matched with equivalent, time-unconstrained binary choices between lotteries. We find no evidence of regret effects. Surprisingly, time-limited offers are more likely to be chosen when the time available for decision-making is longer. Overall, individuals show aversion to small-scale risk; this is stronger in price search than lottery choice. Allowing for this, choices in the two types of task tend to be mutually consistent at the individual level, even when decision-making is subject to tight time constraints.

Conflating Temporal Advancement and Epistemic Advancement: The Progression Bias in Judgment and Decision Making

Haotian Zhou, Xilin Li & Jessica Sim

Personality and Social Psychology Bulletin 45(11): 1563-1579 (November 2019)

When seeking out the truth about a certain aspect of the world, people frequently conduct several inquiries successively over a time span. Later inquiries usually improve upon earlier ones; thus, it is typically rational to expect the finding of a later inquiry to be closer to the truth than that of an earlier one. However, when no meaningful differences exist between earlier and later inquiries, later findings should not be considered epistemically superior. However, in these

cases, people continue to regard findings from later inquiries as closer to the truth than earlier ones. In 10 experiments, when later inquiries conflicted with—but did not epistemically improve upon—earlier ones, participants’ global judgments about the truth aligned more with later findings than earlier ones, an effect referred to as progression bias. The liability to progression bias may have severe ramifications for the well-being of the society and its members.

The Role of Communication in Fair Division With Subjective Claims

Anita Gantner, Kristian Horn & Rudolf Kerschbamer

Journal of Economic Behavior and Organization 167: 72-89 (November 2019)

When agents’ claims regarding the division of a cake are subjective and conflicting, it is difficult to obtain an outcome that is considered fair by the involved parties. This paper investigates how pre-play communication affects behavior and outcomes in fair division experiments where various procedures are used to obtain an allocation of the available resources. On the one hand, it is known from bargaining experiments that communication often leads to faster agreements and to more egalitarian allocations. On the other hand, communication may facilitate the emergence of minority-exploiting coalitions when procedures are used which are not collusion-proof. We find that communication increases both efficiency and perceived fairness of the implemented division independent of the procedure used to obtain a solution. Interestingly, collusion, while highly beneficial for those participating, is rarely attempted even when private communication channels are available.

The Fun and Function of Uncertainty: Uncertain Incentives Reinforce Repetition Decisions

Luxi Shen, Christopher K. Hsee & Joachim H. Talloen

Journal of Consumer Research 46(1): 69–81 (June 2019)

This research studies repetition decisions—namely, whether to repeat a behavior (e.g., a purchase) after receiving an incentive (e.g., a discount). Can uncertainty drive repetition? Four experiments, all involving real consequences for each individual participant, document a counterintuitive reinforcing-uncertainty effect: individuals repeat a behavior more if its incentive is uncertain than if it is certain, even when the certain incentive is financially better. This effect is robust; it holds in both lab and field settings and at both small and large magnitudes. Furthermore, the experiments identify two theory-driven boundary conditions for the reinforcing-uncertainty effect: the effect arises (a) only if the uncertainty is resolved immediately and not if the resolution of uncertainty is delayed, and (b) only after, not before, one has engaged in repetitions. These results support a resolution-as-reward account and cast doubt on other explanations such as reference-dependent preferences. This research reveals the hidden value of uncertain incentives and sheds light on the delicate relationship between incentive uncertainty and repetition decisions.

Advice Taking Under Uncertainty: The Impact of Genuine Advice Versus Arbitrary Anchors on Judgment

Mandy Hütter & Klaus Fiedler

Journal of Experimental Social Psychology

Volume 85, November 2019, 103829

A major module of rational advice taking consists in the metacognitive ability to distinguish between credible advice and arbitrary anchors. Accordingly, we investigated the extent to which framing the very same information as either advice or anchor exerts a differential

influence on quantitative judgments. Four experiments showed that although arbitrary anchors were given lower weight than advice, they nevertheless exerted a systematic impact on final judgments. Degree of integration was related to subjective confidence only in the advice condition, but not in the anchoring condition, suggesting that arbitrary anchors were not considered informative. Framing the source of advice as a human being versus as a computer did not affect our results. Only the aboutness of advice, that is, whether it targeted the focal judgment item, determined its influence on final judgments and on confidence. On the one hand, these findings speak to the (partial) sensitivity of human judges to the source and validity of advice under uncertainty. On the other hand, the persevering effect of arbitrary anchors demonstrates the dependence of judgments on unauthorized influences. Both findings together highlight the need to study advice taking from a metacognitive perspective.

Acting by a Deadline: The Interplay Between Deadline Distance and Movement Induced Goals

Duo Jiang & Dolores Albarracín

Journal of Experimental Social Psychology

Volume 85, November 2019, 103852

Human awareness of the passing of time leads to psychological processes designed to handle these inherent temporal limitations. Deadlines serve to energize desired courses of action and are likely to exert effects by leveraging general goals. Movement (e.g., walking, running) and stasis (e.g., standing, sitting), for example, may elicit general action and inaction goals that affect unrelated, time-constrained decisions. Across one field experiment and three lab experiments, prior movement or control conditions (vs. stasis) were associated with general action goals, which in turn had the perceived motivational fit with a behavior with a close deadline. As a result, movement or control conditions (vs. stasis) produced a higher probability of enacting behaviors (e.g., redemption of a coupon, intention to receive a vaccine) by a close deadline.

Loss Framing Increases Self-Serving Mistakes (But Does Not Alter Attention)

Margarita Leib, Andrea Pittarello, Tom Gordon-Hecker, Shaul Shalvi, & Marieke Roskes

Journal of Experimental Social Psychology 85: Article 103880 (November 2019)

In ambiguous settings, people are tempted to make self-serving mistakes. Here, we assess whether people make more self-serving mistakes to minimize losses compared with maximize gains. Results reveal that participants are twice as likely to make self-serving mistakes to reduce losses compared to increase gains. We further trace participants' eye movements to gain insight into the process underlying self-serving mistakes in losses and gains. We find that tempting, self-serving information does not capture more attention in loss, compared to gain framing. Rather, in loss framing, people are more likely to report the tempting, self-serving information they observed. The results imply that rather than diverting attention away from tempting information, reducing people's motivation to make self-serving mistakes, and framing goals as gains rather than losses are promising ways to decrease the occurrence of self-serving mistakes. In turn, this fosters environments with more accuracy and fewer motivated mistakes.

Towards a Better Understanding of Lawyers' Judgmental Biases in Client Representation: The Role of Need for Cognitive Closure

James H. Stark and Maxim Milyavsky

Washington University Journal of Law & Public Policy (forthcoming 2019)

Available on SSRN: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3368519

Previous research demonstrates that lawyers and law students are, on average, prone to overconfidence bias and self-serving judgments of fairness when they take on a representative lawyering role. This is the first study to investigate individual differences in susceptibility to these biases. Expanding on two previous experiments, and utilizing as our sample 468 law students from twelve geographically diverse U.S. law schools, we examined whether differences in students' Need for Cognitive Closure (NFC) — a motivational desire for clear answers over ambiguity — would affect both their judicial outcome predictions and their “fair settlement value” assessments of a simulated personal injury case when assigned randomly to the role of plaintiff's or defendant's counsel. We also investigated whether high- or low-NFC scores would have any effect on the efficacy of a “consider-the-opposite” (“list the weaknesses of your case”) prompt given to half of our subjects in an effort to de-bias these assessments. We found that a high need for closure intensifies self-serving bias in both students' judicial predictions and fair value assessments, and that bias in students' judicial predictions could be mitigated through de-biasing interventions, even with students high in need for closure. Bias in fairness assessments persisted, despite de-biasing prompts.

How Your Power Affects My Impression of You

Diana Orghian, Filipa de Almeida, Sofia Jacinto, Leonel Garcia-Marques & Ana Sofia Santos
Personality and Social Psychology Bulletin 45(4): 495-509 (April 2019)

In the present article, we investigate how a person's power affects the way we infer traits from their behavior. In Experiment 1, our results suggest that, when faced with behavioral descriptions about others, participants infer both positive and negative traits about powerless actors, whereas for powerful and control (power irrelevant) actors, only positive but *no* negative traits are inferred, an effect we call the *benevolence bias*. In the second experiment, (a) we replicate this effect, (b) we show that it does not depend on the specific traits used in Experiment 1, and (c) we show that it is also detected when an implicit measure of inferences is used. Experiment 3 further shows that this effect generalizes to a more generic power manipulation. Theoretical explanations for these findings are discussed.

Boys will still be boys: Gender differences in trading activity are not due to differences in (over)confidence

Carlos Cueva, Iñigo Iturbe-Ormaetxe, Giovanni Ponti & Josefa Tomás

Journal of Economic Behavior & Organization 160: 100-120 (April 2019)

The fact that men trade more than women in financial markets has been attributed to men's overconfidence. However, evidence supporting this view is only indirect. We directly test this conjecture experimentally, by measuring confidence using monetary incentives before participants trade in a simulated market. We find that men are more confident than women in our trading task. Men also trade more, and they hold larger and less diversified portfolios than women. However, we do not find that differences in confidence explain any portion of the gender gap in trading activity. We explore alternative candidate channels such as risk aversion, financial literacy or competitiveness but find that these factors are also unlikely to play a role.

Bidding Frenzy: Speed of Competitor Reaction and Willingness to Pay in Auctions

Gerald Häubl Peter T L Popkowski Leszczyc

Journal of Consumer Research 45(6): 1294-1314 (April 2019)

This research examines how the intensity of the dynamic competitive interaction with other bidders in ascending auctions influences consumers' willingness to pay (WTP) for auctioned products. It focuses on one important aspect of this interaction: the *speed of competitor reaction*. The key hypothesis is that having one's own bids reciprocated by competing bidders more quickly increases one's WTP in an auction. Evidence from five experiments demonstrates this effect and pinpoints the essential aspects of the psychological mechanism that underlies it. In particular, the effect of speed of competitor reaction on bidding behavior (1) is serially mediated by the perception that the auction is more intensely competitive and by a greater desire to win, (2) is distinct from the effects of time pressure and of the auction's duration or overall rate of progression, (3) is not driven by inferences about the auctioned product's market value, (4) is not qualified by the number of competing bidders nor due to any inferences about the latter, and (5) hinges on direct competitive interaction with other human bidders.

Should Job Applicants be Excited or Calm? The Role of Culture and Ideal Affect In Employment Settings

Lucy Zhang Bencharit, Yuen Wan Ho, Helene H. Fung, Danni Y. Yeung, Nicole M. Stephens, Rainer Romero-Canyas & Jeanne L. Tsai

Emotion 19(3): 377-401 (April 2019)

Do cultural differences in emotion play a role in employment settings? We predicted that cultural differences in ideal affect—the states that people value and ideally want to feel—are reflected in: (a) how individuals present themselves when applying for a job, and (b) what individuals look for when hiring someone for a job. In Studies 1–2 ($N_{S1} = 236$, $N_{S2} = 174$), European Americans wanted to convey high arousal positive states (HAP; excitement) more and low arousal positive states (LAP; calm) less than did Hong Kong Chinese when applying for a job. European Americans also used more HAP words in their applications and showed more “high intensity” smiles in their video introductions than did Hong Kong Chinese. In Study 3 ($N = 185$), European American working adults rated their ideal job applicant as being more HAP and less LAP than did Hong Kong Chinese, and in Study 4a ($N = 125$), European American Masters of Business Administration (MBAs) were more likely to hire an excited (vs. calm) applicant for a hypothetical internship than were Hong Kong Chinese MBAs. Finally, in Study 4b ($N = 300$), employees in a U.S. company were more likely to hire an excited (vs. calm) applicant for a hypothetical internship. In Studies 1–4a, observed differences were partly related to European Americans valuing HAP more than Hong Kong Chinese. These findings support our predictions that culture and ideal affect shape behavior in employment settings, and have important implications for promoting cultural diversity in the workplace.

Downstream Effects of Dispositional Inferences on Confirmation Biases

Kristi A. Costabile & Stephanie Madon

Personality and Social Psychology Bulletin 45(4): 557-570 (April 2019)

Although research has given substantial attention to understanding the *antecedents* of dispositional inferences, less attention has been directed at the *consequences* of these inferences, such that evidence linking dispositional inferences to downstream effects is relatively scarce.

The present investigation examined whether dispositional inferences formed during initial observations elicited confirmatory processing of subsequent information about observed targets. Because confirmation biases influence a variety of information processing strategies, four experiments examined the extent to which dispositional inferences guided memory of new information (Experiment 1), interpretation of ambiguous information (Experiment 2), and information-seeking behavior (Experiments 3 and 4). Results indicated that biased processing of subsequent information was more likely when dispositional inferences were encouraged (i.e., impression formation objective) versus discouraged (i.e., narrative construction objective). This investigation highlights the role of causal inferences on confirmation biases and reveals the ease with which biases can be both bolstered and attenuated.

Better to Overestimate Than to Underestimate Others' Feelings: Asymmetric Cost of Errors in Affective Perspective-Taking

Nadav Klein

Organizational Behavior and Human Decision Processes 151: 1-15 (March 2019)

Accurately assessing other people's perspective in general, and other people's emotional responses in particular, is essential for successful social interaction. However, substantial research finds that accurate perspective taking is the exception rather than the norm. Although errors in perspective taking are common, little is known about their consequences. Is it worse to overestimate or to underestimate other people's emotional responses? Seven experiments find that underestimating the intensity of other people's emotional responses leads to more negative evaluations than overestimating others' emotions (Experiments 1–5). These results replicate across emotional valence and across observers and targets and occur because people believe that underestimation is indicative of lower effort and empathy in trying to understand the target. Additional experiments identify moderators of these effects, including stereotypical emotions and socially undesirable emotions (Experiments 6–7). The cost of errors in affective perspective taking is asymmetric, leading to important implications for social coordination.

Choice Architects Reveal a Bias Toward Positivity and Certainty

David P. Daniels & Julian J. Zlatev

Organizational Behavior and Human Decision Processes 151: 34-48 (March 2019)

Biases influence important decisions, but little is known about whether and how individuals try to exploit others' biases in strategic interactions. Choice architects—that is, people who present choices to others—must often decide between presenting choice sets with positive or certain options (influencing others toward safer options) versus presenting choice sets with negative or risky options (influencing others toward riskier options). We show that choice architects' influence strategies are distorted toward presenting choice sets with positive or certain options, across thirteen studies involving diverse samples (executives, law/business/medical students, adults) and contexts (public policy, business, medicine). These distortions appear to primarily reflect decision biases rather than social preferences, and they can cause choice architects to use influence strategies that backfire.

Perspective Taking and Self-Persuasion: Why “Putting Yourself in Their Shoes” Reduces Openness to Attitude Change

Rhia Catapano, Zakary L. Tormala & Derek D. Rucker

Psychological Science 30(3): 424-435 (March 2019)

Counterattitudinal-argument generation is a powerful tool for opening people up to alternative views. On the basis of decades of research, it should be especially effective when people adopt the perspective of individuals who hold alternative views. In the current research, however, we found the opposite: In three preregistered experiments (total $N = 2,734$), we found that taking the perspective of someone who endorses a counterattitudinal view lowers receptiveness to that view and reduces attitude change following a counterattitudinal-argument-generation task. This ironic effect can be understood through value congruence: Individuals who take the opposition's perspective generate arguments that are incongruent with their own values, which diminishes receptiveness and attitude change. Thus, trying to "put yourself in their shoes" can ultimately undermine self-persuasion. Consistent with a value-congruence account, this backfire effect is attenuated when people take the perspective of someone who holds the counterattitudinal view yet has similar overall values.

Extremeness Aversion Is a Cause of Anchoring

Joshua Lewis, Celia Gaertig & Joseph P. Simmons

Psychological Science 30(2): 159-173 (February 2019)

When estimating unknown quantities, people insufficiently adjust from values they have previously considered, a phenomenon known as *anchoring*. We suggest that anchoring is at least partially caused by a desire to avoid making extreme adjustments. In seven studies ($N = 5,279$), we found that transparently irrelevant cues of extremeness influenced people's adjustments from anchors. In Studies 1–6, participants were less likely to adjust beyond a particular amount when that amount was closer to the maximum allowable adjustment. For example, in Study 5, participants were less likely to adjust by at least 6 units when they were allowed to adjust by a maximum of 6 units than by a maximum of 15 units. In Study 7, participants adjusted less after considering whether an outcome would be within a smaller distance of the anchor. These results suggest that anchoring effects may reflect a desire to avoid adjustments that feel too extreme.

Women in a Men's World: Risk Taking in an Online Card Game Community

Eszter Czibor, Jörg Claussen & Mirjam van Praag

Journal of Economic Behavior & Organization 158: 62-89 (February 2019)

Analyzing a large data set from an online card game platform, a traditionally masculine environment with low female representation, we provide novel field evidence for gender differences in risk taking. Our paper complements existing laboratory experiments by studying a setting where selection into and out of the choice environment is endogenous, choices and outcomes are publicly observable and decisions are repeated over hundreds of rounds. We show that despite the possibility of sorting, imitation or learning, female players persistently choose lower risk-return profiles than men. We argue that the observed gender differences in risk taking result from true preference differences rather than a gap in skill, confidence or beliefs.

Pick Your Perspective: Racial Group Membership and Judgments of Intent, Harm, and Discrimination

Stefanie Simon, Aaron J. Moss & Laurie T. O'Brien

Group Processes & Intergroup Relations 22(2): 215-232 (February 2019)

How do people judge the intentions of a perpetrator and the harm experienced by a victim in cases of racial discrimination? How do these judgments influence attributions to discrimination? We examined these questions in 4 studies, predicting that Whites' and Blacks' judgments would reflect different group-based perspectives. Supporting our hypotheses, White

authors describing an arrest denied intent and ignored harm relative to Black authors (Study 1). When judging whether an event was discrimination, Whites were influenced by intent, but Blacks were influenced by intent and harm (Study 2). Finally, instructing people to take the victim's perspective increased Whites' judgments of intent, harm, and discrimination (Studies 3 and 4), while Blacks' judgments generally remained the same (Study 4). Our results demonstrate one reason why Whites and Blacks judge discrimination differently—they adopt different perspectives when evaluating intent and harm—and offer a way to increase Whites' recognition of discrimination: perspective-taking.

The Impact of a Limited Time Perspective on Information Distortion

Anne-Sophie Chaxel, Catherine Wiggins & Jieru Xie

Organizational Behavior and Human Decision Processes 149: 35-46 (November 2018)

The present research examines how a limited time perspective influences the processing of new information during choice making. Specifically, we examine how perceptions of a limited future promote the distortion of new information in favor of one's prior beliefs. Across five studies, we provide evidence of a link between more-limited time perspectives and higher information distortion, and we illuminate the proposed process: the adoption of a cognitive consistency goal when the time perspective is limited. Overall, the current work identifies a new driver of distortion—the amount of time individuals believe remains in the future. Furthermore, it contributes a novel source of biased information processing that is motivational in nature rather than the result of a lack of cognitive resources: the mere *belief* regarding how much time remains in the future influences information processing *goals* and, subsequently, how decision-makers process new information.

Ownership, Punishment, and Norms in a Real-Effort Bargaining Experiment

Garret Ridinger

Journal of Economic Behavior & Organization 155: 382-402 (November 2018)

This paper examines the importance of prior ownership and punishment in bargaining over a jointly produced surplus. Using a laboratory experiment, participants jointly produce a surplus using a real effort task with the entire surplus given to the person who put in higher effort. Participants then bargain over the surplus in a series of ultimatum games. Treatments varied whether the proposer or responder received the surplus prior to bargaining and the threat point of the responder. The results suggest that proposers respect prior ownership when the responder has a strong ability to punish, but not when punishment is weak. Responders respect prior ownership when their ability to punish is weak, but reject at high rates when they have strong punishment. An independent measure of individual sensitivity to rule following can explain some of the results, adding support to the theory that individual behavior in bargaining is driven in part by adherence to social norms.

Revisiting Loss Aversion: Evidence From Professional Tennis

Nejat Anbarcia, K. Peren Arin, Torben Kuhlenskasper & Christina Zenke

Journal of Economic Behavior & Organization 153: 1-18 (September 2018)

We provide further evidence for the existence of loss aversion in a high-stakes context: professional tennis. Our contribution to the literature is threefold: (1) We provide a theoretical framework as a basis of our investigation, (2) we test the predictions of our model by using a novel dataset for both male and female players from the Dubai Tennis Championships 2013 that not only includes the serve speed but also the serve location, and (3) we employ semiparametric

Additive Mixed Models to include smooth one-, two- and three-dimensional interaction effects for modelling the serve speed and placement. Our results show that when behind in score players put more effort into the serve than when they are ahead. We also document that players take more risks in the final. Finally, we detect remarkable gender differences with respect to the incidence of loss aversion within a game versus within a set.

The Role of “Prominent Numbers” In Open Numerical Judgment: Strained Decision Makers Choose From Limited Set Of Accessible Numbers

Benjamin A. Converse & Patrick J. Dennis

Organizational Behavior and Human Decision Processes 147: 94-107 (July 2018)

Numerate adults can represent an infinite array of integers. When a judgment requires them to “pick a number,” how do they select one to represent the abstract signal in mind? Drawing from research on the cognitive psychology of number representation, we conjecture that judges who operate primarily in decimal systems simplify by initially selecting from a set of chronically accessible “Prominent Numbers” defined as the powers of ten, their doubles, and their halves [... 5, 10, 20, 50, 100, 200...]; then, when willing and able, refining from there. A sample of 3 billion stock trades reveals that traders’ decisions reflect Prominent-Number clustering (Study 1) and a “natural experiment” reveals more clustering in rushed trading conditions (Study 2). Three sets of subsequent studies provide evidence consistent with an accessibility-based account of Prominent-Number usage: Experiments show that judges rely more on Prominent Numbers when they are induced to rush rather than take their time (Studies 3a and 3b), and when they are under high versus low cognitive load (Studies 4a, 4b, and 4c); and a final correlational study shows that Prominent-Number clustering is more apparent for judgments that require judges to scan a wider range of plausible values (Study 5). This work underscores the need to differentiate between Round Numbers and Prominent Numbers, and between representational properties of graininess and accessibility, in numerical judgment.

Choosing for Others and its Relation to Information Search

Yi Liu, Evan Polman, Yongfang Liu & Jiangli Jiao

Organizational Behavior and Human Decision Processes 147: 65-75 (July 2018)

When people make choices, they both identify their options and research the unique details that comprise their options. Respectively, these two search behaviors are called alternative- and attribute-search. The literature treats these separate information search behaviors as a trade-off: Choosing to examine extant alternatives (alternative-search) means suffering the costs of not analyzing the details of alternatives (attribute-search), and vice versa. Here, we found that in choices people make for others, they search for more alternatives and more attributes than in choices people make for themselves. Moreover, we found that when people face a trade-off between searching for alternatives and attributes, people choosing for others will favor alternatives, whereas people choosing for themselves will favor attributes. Thus, we found that the pursuit of information is different when people choose for others (vs. themselves), suggesting a novel pivot to a range of areas in decision making where the alternative-attribute trade-off is ubiquitous.

Contests as Selection Mechanisms: The Impact of Risk Aversion

Christoph March & Marco Sahn

Journal of Economic Behavior & Organization 150: 114-131 (June 2018)

We investigate how individual risk preferences affect the likelihood of selecting the more able contestant within a two-player Tullock contest. Our theoretical model yields two main predictions: First, an increase in the risk aversion of a player worsens her odds unless she already has a sufficiently large advantage. Second, if the prize money is sufficiently large, a less able but less risk averse contestant can achieve an equal or even higher probability of winning than a more able but more risk averse opponent. In a laboratory experiment we confirm both, the non-monotonic impact and the compensating effect of risk aversion on winning probabilities. Our results suggest a novel explanation for the gender gap and the optimality of limited monetary incentives in selection contests.

Taking Aversion

Oleg Korenok, Edward L. Millner & Laura Razzolini

Journal of Economic Behavior & Organization 150: 397-403 (June 2018)

We determine whether the moral cost of taking exceeds the moral cost of not giving. We design and conduct an experiment to determine whether a dictator prefers a giving game over a taking game when the payoff possibilities are identical and to measure the strength of the preference. We find that aversion to taking is prevalent and strong. Over 85% of the dictators in our experiment choose to play a giving game over a taking game when the payoff possibilities are identical and, on average, dictators are willing to sacrifice over 31% of their endowment to avoid taking.

Delegating Decisions: Recruiting Others to Make Choices We Might Regret

Mary Steffel & Elanor F. Williams

Journal of Consumer Research 44(5): 1015-1032 (February 2018)

People highly value the freedom to make their own choices. Yet, when faced with difficult decisions they might regret, people often prefer freedom *from* choice. Eight experiments demonstrate that people delegate decisions the harder they are to make. People delegate to avoid responsibility for potentially making a bad decision but not necessarily to put choices in better hands. People do prefer delegating to people with relevant expertise, but they are willing to delegate even to non-experts when faced with difficult versus easy decisions. Moreover, people prefer dealing with difficult decisions by delegating than by avoiding such decisions altogether. Thus, giving people the option to delegate reduces the tendency for people to walk away from difficult choices empty-handed. [DRM Summer 2018]

Do People Inherently Dislike Uncertain Advice?

Celia Gaertig & Joseph P. Simmons

Psychological Science 29(4): 504-520 (February 2018)

Research suggests that people prefer confident to uncertain advisors. But do people dislike uncertain *advice* itself? In 11 studies ($N = 4,806$), participants forecasted an uncertain event after receiving advice and then rated the quality of the advice (Studies 1–7, S1, and S2) or chose between two advisors (Studies 8–9). Replicating previous research, our results showed that confident advisors were judged more favorably than advisors who were “not sure.” Importantly, however, participants were *not* more likely to prefer certain advice: They did not dislike advisors who expressed uncertainty by providing ranges of outcomes, giving numerical probabilities, or saying that one event is “more likely” than another. Additionally, when faced with an explicit choice, participants were *more* likely to choose an advisor who provided uncertain advice over an advisor who provided certain advice. Our findings suggest that people do not inherently

dislike uncertain advice. Advisors benefit from expressing themselves with confidence, but not from communicating false certainty. [DRM Summer 2018]

Good Choice, Bad Judgment: How Choice Under Uncertainty Generates Over-Optimism

Jordan Tong, Daniel Feiler & Anastasia Ivantsova

Psychological Science 29(2): 254-265 (December 2017)

The authors examine a fundamental feature of choice under uncertainty: Overestimating an alternative makes one more likely to choose it. If people are naive to this structural feature, then they will tend to have erroneously inflated expectations for the alternatives they choose. In contrast to theories of motivated reasoning, this theory suggests that individuals will overestimate chosen alternatives even before they make their choice. In four studies, the authors found that students and managers exhibited behavior consistent with naïveté toward this relationship between estimation error and choice, leaving them over-optimistic about their chosen alternatives. This over-optimism from choosing positive error is exacerbated when the true values of the alternatives are close together, when there is more uncertainty about the values of alternatives, and when there are many alternatives to choose from. Our results illustrate how readily over-optimism emerges as a result of statistical naïveté, even in the absence of a desire to justify one's decision after the choice. [DRM Summer 2018]

The Impact of Uncertain Threat on Affective Bias: Individual Differences in Response to Ambiguity

Maital Neta, Julie Cantelon, Zachary Haga, Caroline Mahoney, Holly Taylor & Caroline Davis
Emotion 17(8): 1137-1143 (December 2017)

Individuals who operate under highly stressful conditions (e.g., military personnel and first responders) are often faced with the challenge of quickly interpreting ambiguous information in uncertain and threatening environments. When faced with ambiguity, it is likely adaptive to view potentially dangerous stimuli as threatening until contextual information proves otherwise. One laboratory-based paradigm that can be used to simulate uncertain threat is known as threat of shock (TOS), in which participants are told that they might receive mild but unpredictable electric shocks while performing an unrelated task. The uncertainty associated with this potential threat induces a state of emotional arousal that is not overwhelmingly stressful, but has widespread—both adaptive and maladaptive—effects on cognitive and affective function. For example, TOS is thought to enhance aversive processing and abolish positivity bias. Importantly, in certain situations (e.g., when walking home alone at night), this anxiety can promote an adaptive state of heightened vigilance and defense mobilization. In the present study, the authors used TOS to examine the effects of uncertain threat on valence bias, or the tendency to interpret ambiguous social cues as positive or negative. As predicted, the authors found that heightened emotional arousal elicited by TOS was associated with an increased tendency to interpret ambiguous cues negatively. Such negative interpretations are likely adaptive in situations in which threat detection is critical for survival and should override an individual's tendency to interpret ambiguity positively in safe contexts. [DRM Summer 2018]

Ratio Bias and Policy Preferences: How Equivalency Framing of Numbers Can Affect Attitudes

Rasmus T. Pedersen

Political Psychology 38(6): 1103-1120 (December 2017)

Numbers permeate modern political communication. While current scholarship on framing effects has focused on the persuasive effects of words and arguments, this article shows that framing of numbers can also substantially affect policy preferences. Such effects are caused by ratio bias, which is a general tendency to focus on numerators and pay insufficient attention to denominators in ratios. Using a population-based survey experiment, I demonstrate how differently framed but logically equivalent representations of the exact same numerical value can have large effects on citizens' preferences regarding salient political issues such as education and taxes. Furthermore, the effects of numerical framing are found across most groups of the population, largely regardless of their political predisposition and their general ability to understand and use numerical information. These findings have significant implications for our understanding of framing effects and the role played by numbers in public opinion formation. [DRM Summer 2018]

How Seemingly Innocuous Words Can Bias Judgment: Semantic Prosody and Impression Formation

David J. Hauser & Norbert Schwarz

Journal of Experimental Social Psychology 75: 11-18 (March 2018)

Would we think more negatively of a person who *caused* rather than *produced* an outcome or who is described as *utterly* rather than *totally* unconventional? While these word choices may appear to be trivial, *cause* and *utterly* occur more frequently in a negative context in natural language use than *produced* or *totally*, even though these words do not have an explicit valenced meaning. Words that are primarily used in a valenced context are said to have semantic prosody. Five studies show that semantically-prosodic descriptors affect the impressions formed of others. These effects occur even in situations where perceivers are likely to be skeptical of messages, and they impact behavioral intentions toward targets. An *utterly* changed person was perceived as less warm and competent than a *totally* changed person (Study 1), and people held more negative impressions of an *utterly* rather than *totally* unconventional boss (Study 2). People had stronger intentions to vote for a political candidate who *produced* budget changes over one who *caused* them (Study 3) and preferred a bank that *lends* money (a word with positive semantic prosody) over a bank that *loans* money (Study 4). Finally, participants had more (less) romantic interest in potential dating partners with Tinder profiles that used words with positive (negative) semantic prosody (Study 5). The authors conclude that semantically prosodic descriptors that lack a clear positive or negative meaning still lead people to infer the valence of what is to come, which colors the impressions they form of others. [DRM Winter 2018]

The Anchoring-bias in Groups

Tim R.W.de Wilde, Femke S.Ten Velden & Carsten K.W.De Dreu

Journal of Experimental Social Psychology 76: 116--126 (May 2018)

Decision-making groups decide on many numerical issues, which makes them potentially vulnerable to cognitive anchors. In the current study we investigated (1) whether the anchoring-bias operates in groups, (2) under which circumstances group anchoring is more or less likely to occur and (3) which processes underlie the anchoring-bias in groups. In three group decision-making studies we found that cooperative groups were susceptible to anchors. However, the anchoring-bias in groups was mitigated when groups were made process accountable or competitively motivated. Finally, we investigated whether the anchoring bias in groups operated

through a fast and early influence on individual preferences, or through biased information exchange. We found evidence for the former process, but not for the latter.

Advice Giving: A Subtle Pathway to Power

Michael Schaerer, Leigh P. Tost, Li Huang, Francesca Gino & Rick Larrick
Personality and Social Psychology Bulletin 44(5): 653-669 (May 2018)

We propose that interpersonal behaviors can activate feelings of power, and we examine this idea in the context of advice giving. Specifically, we show (a) that advice giving is an interpersonal behavior that enhances individuals' sense of power and (b) that those who seek power are motivated to engage in advice giving. Four studies, including two experiments ($N = 290$, $N = 188$), an organization-based field study ($N = 94$), and a negotiation simulation ($N = 124$), demonstrate that giving advice enhances the adviser's sense of power because it gives the adviser perceived influence over others' actions. Two of our studies further demonstrate that people with a high tendency to seek power are more likely to give advice than those with a low tendency. This research establishes advice giving as a subtle route to a sense of power, shows that the desire to feel powerful motivates advice giving, and highlights the dynamic interplay between power and advice.

Facial First Impressions Across Culture: Data-Driven Modeling of Chinese and British Perceivers' Unconstrained Facial Impressions

Clare A. M. Sutherland, Xizi Liu, Lingshan Zhang, Yingtung Chu, Julian A. Oldmeadow & Andrew W. Young
Personality and Social Psychology Bulletin 44(4): 521-537 (April 2018)

People form first impressions from facial appearance rapidly, and these impressions can have considerable social and economic consequences. Three dimensions can explain Western perceivers' impressions of Caucasian faces: approachability, youthful-attractiveness, and dominance. Impressions along these dimensions are theorized to be based on adaptive cues to threat detection or sexual selection, making it likely that they are universal. We tested whether the same dimensions of facial impressions emerge across culture by building data-driven models of first impressions of Asian and Caucasian faces derived from Chinese and British perceivers' unconstrained judgments. We then cross-validated the dimensions with computer-generated average images. We found strong evidence for common approachability and youthful-attractiveness dimensions across perceiver and face race, with some evidence of a third dimension akin to capability. The models explained ~75% of the variance in facial impressions. In general, the findings demonstrate substantial cross-cultural agreement in facial impressions, especially on the most salient dimensions.

What's Next? Disentangling Availability From Representativeness Using Binary Decision Tasks

João N. Braga, Mário B. Ferreira, Steven Sherman, André Mata, Sofia Jacinto & Marina Ferreira
Journal of Experimental Social Psychology 76: 307-319 (May 2018)

People's intuitive predictions under uncertainty may rely on the representativeness or on the availability heuristics (Tversky & Kahneman, 1974). However, the distinction between these two heuristics has never been clear, and both have been proposed to underlie the same judgment tasks. For instance, when judging what outcome is likely to be next in a coin flip after a streak, representativeness leads to predicting an alternation in the outcome, ending the streak (gambler's

fallacy), whereas availability leads to predicting the streak's continuation. We propose that availability (direct use of accessibility) is computed earlier than representativeness (comparing to an abstract representation of the expected outcome). In five studies, we pit one heuristic against the other in binary prediction tasks, both in coin flip and athlete's performance contexts. We find that, although the streak outcome is cognitively more available, judgments are usually based on representativeness, leading more often to a prediction of an alternation after a streak. However, under time-pressure conditions, representativeness processes are constrained and participants are more prone to base their predictions on the most salient and cognitively available outcomes.

The Effect of an Interruption on Risk Decisions

Daniella M. Kupor, Wendy Liu & On Amir

Journal of Consumer Research 44(6): 1205-1219 (April 2018)

Interruptions during consumer decision making are ubiquitous. In seven studies, we examine the consequences of a brief interruption during a financial risk decision. We identify a fundamental feature inherent in an interruption's temporal structure—a repeat exposure to the decision stimuli—and find that this re-exposure reduces decision stimuli's subjective novelty. This reduced novelty in turn reduces decision makers' apprehension and increases the amount of risk they take in a wide range of risky financial decision contexts. Consistent with our theoretical framework, this interruption effect disappears when a stimulus's subjective novelty is restored after an interruption. We further find that these consequences are often unique to interruptions and often do not result from other interventions (e.g., time pressure and elongated thinking); this is because an interruption's unique temporal structure (which results in a repeat exposure to the decision stimuli) underlies its consequences. Our findings shed light on how and when interruptions during decision making can influence risk taking.

Property Lines in the Mind: Consumers' Psychological Ownership and Their Territorial Responses

Colleen P. Kirk, Joann Peck & Scott D. Swain

Journal of Consumer Research 45(1): 148-168 (June 2018)

Psychological ownership, or the feeling that something is mine, has garnered growing attention in marketing. While previous work focuses on the positive aspects of psychological ownership, this research draws attention to the darker side of psychological ownership—territorial behavior. Results of five experimental studies demonstrate that when consumers feel psychological ownership of a target, they are prone to perceptions of infringement and subsequent territorial responses when they infer that another individual feels ownership of the same target. Potential infringers are held less accountable when they acknowledge ownership prior to engaging in otherwise threatening behaviors, and when they could not be expected to know that a target is owned, as it was not clearly marked. In addition, high narcissists are subject to a psychological ownership metaperception bias, and are thus more apt than low narcissists to perceive infringement. A multitude of territorial responses are documented for both tangible (coffee, sweater, chair, pizza) and intangible (a design) targets of ownership. Further, consumers infer the psychological ownership of others from signals of the antecedents of psychological ownership: control, investment of self, and intimate knowledge. Theoretical implications for territoriality and psychological ownership are discussed, along with managerial implications and areas for future research.

When Being in a Positive Mood Increases Choice Deferral

Jordan Etkin & Anastasiya Pocheptsova Ghosh

Journal of Consumer Research 45(1): 208-225 (June 2018)

Consumers' choices are often accompanied by unrelated incidental moods. The positive mood caused by receiving a compliment, for example, may persist when one is choosing what service to book or which product to buy. How might being in a positive mood affect consumers' subsequent, unrelated choices? The present research demonstrates that being in a positive mood can make consumers more likely to defer choice. Four studies show that when choosing requires trade-offs between important choice attributes, being in a positive (vs. neutral) mood makes choosing more difficult and therefore increases the likelihood of deferring choice altogether. The findings further understanding of how incidental factors shape choice processes and outcomes and the role of emotions in decision making.

In Your Shoes or Mine? Shifting From Other to Self Perspective is Vital For Emotional Empathy [copy needed]

Chui-De Chiu & Yei-Yu Yeh

Emotion 18(1): 39-45 (February 2018)

Emotional empathy—feeling another person's affective states—entails simulating how one would feel in the same circumstance. Prior research has implicated the role of executive controls and shown a link between visuospatial perspective taking and personal disposition of empathy. No study has investigated how executive control processes involved in perspective shifting relate to emotional empathy. Incorporating a spatial perspective-taking task in a set switch paradigm, we investigated whether swiftly switching from the altercentric to the egocentric perspective is associated with heightened emotional empathy but not with accurate classification of low-level perceptual affective cues. Emotional empathy was measured by subjective ratings of arousal and the similarity of affective states with the target person when viewing photos of a person in an emotionally charged context. Cognitive empathy was measured by correct recognition of affective cues. Our results showed that executive controls in perspective shifting related to emotional empathy but not to cognitive empathy. Emotional empathy correlated negatively with the switch cost from the altercentric to the egocentric perspective and not vice versa. Faster switching from the altercentric to the egocentric perspective was associated with heightened emotional empathy. Moreover, the processing strategy did not moderate the association. Flexibility in perspective shifting, especially in regaining one's own perspective after taking another person's perspective, is critical for emotional empathy. To feel another person's affective states, one should regain self-perspective after walking in the other person's shoes.

The Empirical Case for Acquiescing to Intuition

Daniel K. Walco & Jane L. Risen

Psychological Science 28(12): 1807-1820 (October 2017)

Will people follow their intuition even when they explicitly recognize that it is irrational to do so? Dual-process models of judgment and decision making are often based on the assumption that the correction of errors necessarily follows the detection of errors. But this assumption does not always hold. People can explicitly recognize that their intuitive judgment is wrong but nevertheless maintain it, a phenomenon known as *acquiescence*. Although anecdotes and experimental studies suggest that acquiescence occurs, the empirical case for acquiescence

has not been definitively established. In four studies—using the ratio-bias paradigm, a lottery exchange game, blackjack, and a football coaching decision—we tested acquiescence using recently established criteria. We provide clear empirical support for acquiescence: People can have a faulty intuitive belief about the world (Criterion 1), acknowledge the belief is irrational (Criterion 2), but follow their intuition nonetheless (Criterion 3)—even at a cost.

The Wisdom in Virtue: Pursuit of Virtue Predicts Wise Reasoning About Personal Conflicts

Alex C. Huynh, Harrison Oakes, Garrett R. Shay & Ian McGregor
Psychological Science 28(12): 1848-1856 (October 2017)

Most people can reason relatively wisely about others' social conflicts, but often struggle to do so about their own (i.e., Solomon's paradox). We suggest that true wisdom should involve the ability to reason wisely about both others' and one's own social conflicts, and we investigated the pursuit of virtue as a construct that predicts this broader capacity for wisdom. Results across two studies support prior findings regarding Solomon's paradox: Participants ($N = 623$) more strongly endorsed wise-reasoning strategies (e.g., intellectual humility, adopting an outsider's perspective) for resolving other people's social conflicts than for resolving their own. The pursuit of virtue (e.g., pursuing personal ideals and contributing to other people) moderated this effect of conflict type. In both studies, greater endorsement of the pursuit of virtue was associated with greater endorsement of wise-reasoning strategies for one's own personal conflicts; as a result, participants who highly endorsed the pursuit of virtue endorsed wise-reasoning strategies at similar levels for resolving their own social conflicts and resolving other people's social conflicts. Implications of these results and underlying mechanisms are explored and discussed.

Concern for Others Leads to Vicarious Optimism

Andreas Kappes, Nadira S. Faber, Guy Kahane, Julian Savulescu & Molly J. Crockett
Psychological Science 29(3): 379-389 (January 2018)

An optimistic learning bias leads people to update their beliefs in response to better-than-expected good news but neglect worse-than-expected bad news. Because evidence suggests that this bias arises from self-concern, we hypothesized that a similar bias may affect beliefs about other people's futures, to the extent that people care about others. Here, we demonstrated the phenomenon of *vicarious optimism* and showed that it arises from concern for others. Participants predicted the likelihood of unpleasant future events that could happen to either themselves or others. In addition to showing an optimistic learning bias for events affecting themselves, people showed vicarious optimism when learning about events affecting friends and strangers. Vicarious optimism for strangers correlated with generosity toward strangers, and experimentally increasing concern for strangers amplified vicarious optimism for them. These findings suggest that concern for others can bias beliefs about their future welfare and that optimism in learning is not restricted to oneself.

Persuasion, Emotion, and Language: The Intent to Persuade Transforms Language via Emotionality

Matthew D. Rocklage, Derek D. Rucker & Loran F. Nordgren
Psychological Science 29(5): 749-760 (March 2018)

Persuasion is a foundational topic within psychology, in which researchers have long investigated effective versus ineffective means to change other people's minds. Yet little is known about how individuals' communications are shaped by the intent to persuade others. This research examined the possibility that people possess a learned association between emotion and persuasion that spontaneously shifts their language toward more emotional appeals, even when such appeals may be suboptimal. We used a novel quantitative linguistic approach in conjunction with controlled laboratory experiments and real-world data. This work revealed that the intent to persuade other people spontaneously increases the emotionality of individuals' appeals via the words they use. Furthermore, in a preregistered experiment, the association between emotion and persuasion appeared sufficiently strong that people persisted in the use of more emotional appeals even when such appeals might backfire. Finally, direct evidence was provided for an association in memory between persuasion and emotionality.

Understanding the Role of the Perpetrator in Triggering Humiliation: The Effects of Hostility and Status

Saulo Fernández, Eran Halperin, Elena Gaviria, Rut Agudo & Tamar Saguy
Journal of Experimental Social Psychology 76: 1-11 (May 2018)

The present research addresses the question of whether two characteristics of the situation (the hostility of a perpetrator and his/her status vis-à-vis the target) are critical in triggering humiliation (versus shame and anger). In Study 1, participants described an autobiographical episode that elicited either humiliation, shame, or anger. Humiliation episodes were coded (by independent raters) as particularly unjust situations in which a hostile perpetrator (more hostile than perpetrators of the anger episodes) forced the devaluation of the target's self. In Studies 2 and 3, we manipulated the perpetrator's hostility and his/her status vis-à-vis the target. Consistent with our hypotheses, both hostility and high status contributed to elicit humiliation, albeit hostility turned out to have a much stronger effect on triggering humiliation than high status. Moreover, our results clarified the cognitive process underlying the effect that these two factors had on humiliation: hostility triggered humiliation via the appraisal of injustice, whereas high status triggered humiliation via the appraisal of internalizing a devaluation of the self.

Reduced Framing Effect: Experience Adjusts Affective Forecasting With Losses

Lisha Fu, Junjie Yu, Shiguang Ni & Hong Li
Journal of Experimental Social Psychology 76: 231-238 (May 2018)

The framing effect refers to the phenomenon that phrasing the same outcomes as gains or losses leads to different risky choices. Most of the framing literature is based on descriptive scenarios, whereas people in real life must make decisions from experience because they rarely receive precise descriptions. However, whether and how framing effects occur in experience-based decisions remain important open questions. In three experiments, we demonstrate that the framing effect is less pronounced in experience-than in description-based decisions. We explain this finding on the basis of affective forecasting with losses. In descriptive conditions, individuals overestimate the impact of potential losses on their emotional reactions, whereas experience helps people become aware of their ability to rationalize losses and mitigates this erroneous affective forecasting, thereby reducing the propensity for risk seeking. Our results offer insight into the specific role of experience in framing effect: experience adjusts affective forecasting with losses, which reduces the framing effect.

Behavioral Bias in Number Processing: Evidence From Analysts' Expectations

Tristan Roger, Patrick Roger & Alain Schatt

Journal of Economic Behavior & Organization 149: 315-331 (May 2018)

Research in neuropsychology shows that individuals process small and large numbers differently. Small numbers are processed on a linear scale, while large numbers are processed on a logarithmic scale. In this paper, we show that financial analysts process small prices and large prices differently. When they are optimistic (pessimistic), analysts issue more optimistic (pessimistic) target prices for small price stocks than for large price stocks. Our results are robust when controlling for the usual risk factors such as size, book-to-market, momentum, profitability and investments. They are also robust when we control for firm and analyst characteristics, or for other biases such as the 52-week high bias, the preference for lottery-type stocks and positive skewness, and the analyst tendency to round numbers. Finally, we show that analysts become more optimistic after stock splits. Overall, our results suggest that a deeply-rooted behavioral bias in number processing drives analysts' return expectations.

Risk(Mis)Perception: When Greater Risk Reduces Risk Valuation

Uzma Khan & Daniella M. Kupor

Journal of Consumer Research 43(5): 769-786 (2017)

The authors show that the value of a risky option decreases upon addition of risky prospects of the same valence. For instance, a medical drug with a potential side effect of seizures is viewed as less threatening when it also has smaller potential side effects, such as congestion and fatigue; travel insurance covering serious injury is viewed as less attractive when it also covers minor ailments; a lottery offering a chance to win an iPad is viewed as less attractive when it also offers a chance to win smaller prizes. As a result, consumers can perceive normatively more dangerous (beneficial) options to be less dangerous (beneficial) and normatively less dangerous (beneficial) options to be more dangerous (beneficial). This effect arises because people believe that larger prospects (e.g., seizures) are less likely than smaller prospects (e.g., congestion). Therefore, inclusion of smaller prospects by contrast makes a larger prospect appear less likely, which in turn reduces the perceived value of the risky option. Thus, this effect arises only when smaller prospects are added to a larger prospect, and only when the prospects are probabilistic. Cognitive load and feelings of personal control also moderate the effect. [DRM Summer 2017]

Thinking Fast Increases Framing Effects in Risky Decision Making

Lisa Guo, Jennifer S. Trueblood & Adele Diederich

Psychological Science 28(4): 530-543 (2017)

Every day, people face snap decisions when time is a limiting factor. In addition, the way a problem is presented can influence people's choices, which creates what are known as framing effects. In this research, we explored how time pressure interacts with framing effects in risky decision making. Specifically, does time pressure strengthen or weaken framing effects? On one hand, research has suggested that framing effects evolve through the deliberation process, growing larger with time. On the other hand, dual-process theory attributes framing effects to an intuitive, emotional system that responds automatically to stimuli. In our experiments, participants made decisions about gambles framed in terms of either gains or losses, and time pressure was manipulated across blocks. Results showed increased framing effects under time

pressure in both hypothetical and incentivized choices, which supports the dual-process hypothesis that these effects arise from a fast, intuitive system.

Take It or Leave It: How Choosing versus Rejecting Alternatives Affects Information Processing

Tatiana Sokolova & Aradhna Krishna

Journal of Consumer Research 43(4): 614-635 (2017)

People can make decisions by choosing or by rejecting alternatives. This research shows that changing a task from choice to rejection makes people more likely to rely on deliberative processing, what we label the task-type effect. To demonstrate this effect, we use a set of established decision biases that can be attenuated under deliberative processing. We show that changing a task from choice to rejection makes people express more consistent preferences between safe and risky options in the Asian disease problem (study 1A) and in financial decision making (study 1B), even with real monetary consequences (study 1C). Further, switching a task from choice to rejection increases the quality of consideration sets in the context of hotel reviews (study 2) and leads to more rational decisions in the context of cell phone plan selection (study 3). Studies 4 and 5 tap into the process underlying the effect of task type. We demonstrate that a rejection task produces decisions similar to those observed in a choice task when decision makers are cognitively depleted (study 4) or encouraged to rely on their feelings (study 5). The findings provide insight into the effect of task type on deliberation and decision outcomes. [DRM Summer 2017]

Collective Choices Under Ambiguity

M. Vittoria Levati, Stefan Napel & Ivan Soraperra

Group Decision and Negotiation 26(1): 133-149 (2017)

We investigate experimentally whether collective choice environments matter for individual attitudes to ambiguity. In a simple two-urn Ellsberg experiment, one urn offers a 45 % chance of winning a fixed monetary prize while the other offers an ambiguous chance. Participants choose either individually or in groups of three. Group decision rules vary in the level of individual responsibility for the others' payoffs: the collective choice is taken by majority, randomly delegated to two group members, or randomly delegated to a single group member. Although most participants display consistent ambiguity attitudes across their decisions, taking responsibility for the others tends to foster ambiguity aversion.

Maximin Envy-Free Division of Indivisible Items

Steven J. Rams, D. Marc Kilgour & Christain Klamler

Group Decision and Negotiation 26(1): 115-131 (2017)

Assume that two players have strict rankings over an even number of indivisible items. We propose two algorithms to find balanced allocations of these items that are maximin—maximize the minimum rank of the items that the players receive—and are envy-free and Pareto-optimal, if such allocations exist. To determine whether an envy-free allocation exists, we introduce a simple condition on preference profiles; in fact, our condition guarantees the existence of a maximin, envy-free, and Pareto-optimal allocation. Although not strategy-proof, our algorithms would be difficult to manipulate unless a player has complete information about its opponent's ranking. We assess the applicability of the algorithms to real-world problems, such as allocating marital property in a divorce or assigning people to committees or projects.

Gain-Loss Framing Effects in Dilemmas of Trust and Reciprocity

Anthony M. Evans & Ilja van Beest

Journal of Experimental Social Psychology 73: 151-163 (November 2017)

How do trust and reciprocity decisions change when outcomes are framed in terms of potential losses (vs gains)? In two studies, with 7464 trust decisions from 359 participants and 2723 reciprocity decisions from 221 participants, we find that loss framing increases mean-level trust, but has no effect on mean-level reciprocity. Additionally, loss framing changes how decisions are made: In the domain of losses, trustors and trustees become less calculative — trust decisions involving losses are less sensitive to changes in expected value and reciprocity decisions are less sensitive to the financial temptation to betray trust. Critically, these changes in the process of decision-making are more pronounced when people interact with a human (vs computer) partner, pointing to uniquely social consequences of loss framing. The present results contribute to our understanding of the factors that shape trust and reciprocity, and emphasize that interpersonal processes play an important but under examined role in gain-loss framing effects.

Deliberation Erodes Cooperative Behavior — Even Towards Competitive Out-Groups, Even When Using a Control Condition, and Even When Eliminating Selection Bias

Jim A.C. Everett, Zach Ingbretsen, Fiery Cushman & Mina Cikara

Journal of Experimental Social Psychology 73: 76-81 (November 2017)

By many accounts cooperation appears to be a default strategy in social interaction. There are, however, several documented instances in which reflexive responding favors aggressive behaviors: for example, interactions with out-group members. We conduct a rigorous test of potential boundary conditions of intuitive prosociality by looking at whether intuition favors cooperation even towards competitive out-group members, and even in losses frames. Moreover, we address three major methodological limitations of previous research in this area: a lack of an unconstrained control condition; non-compliance with time manipulations leading to high rates of exclusions and thus a selection bias; and non-comprehension of the structure of the game. Even after eliminating participant selection bias and non-comprehension, we find that deliberation decreases cooperation: even in competitive contexts towards out-groups and even in a losses frame, though the differences in cooperation between groups was consistent across conditions. People may be intuitive cooperators, but they are not intuitively impartial.

Confirmation Bias in Human Reinforcement Learning: Evidence From Counterfactual Feedback Processing

Stefano Palminteri, Germain Lefebvre, Emma J. Kilford & Sarah-Jayne Blakemore

PLoS Computational Biology 13(8) (August 2017). Available at:

<https://doi.org/10.1371/journal.pcbi.1005684>

Previous studies suggest that factual learning, that is, learning from obtained outcomes, is biased, such that participants preferentially take into account positive, as compared to negative, prediction errors. However, whether or not the prediction error valence also affects counterfactual learning, that is, learning from forgone outcomes, is unknown. To address this question, we analyzed the performance of two groups of participants on reinforcement learning tasks using a computational model that was adapted to test if prediction error valence influences learning. We carried out two experiments: in the factual learning experiment, participants learned from partial feedback (i.e., the outcome of the chosen option only); in the counterfactual learning

experiment, participants learned from complete feedback information (i.e., the outcomes of both the chosen and unchosen option were displayed). In the factual learning experiment, we replicated previous findings of a valence-induced bias, whereby participants learned preferentially from positive, relative to negative, prediction errors. In contrast, for counterfactual learning, we found the opposite valence-induced bias: negative prediction errors were preferentially taken into account, relative to positive ones. When considering valence-induced bias in the context of both factual and counterfactual learning, it appears that people tend to preferentially take into account information that confirms their current choice.

When Bigger Is Better (and When It Is Not): Implicit Bias in Numeric Judgments

Ellie J. Kyung, Manoj Thomas & Aradhna Krishna

Journal of Consumer Research 44(1): 62–79 (June 2017)

Numeric ratings for products can be presented using a bigger-is-better format (1 = bad, 5 = good) or a smaller-is-better format with reversed rating poles (1 = good, 5 = bad). Seven experiments document how implicit memory for the bigger-is-better format—where larger numbers typically connote something is better—can systematically bias consumers' judgments without their awareness. This rating polarity effect is the result of proactive interference from culturally determined numerical associations in implicit memory and results in consumer judgments that are less sensitive to differences in numeric ratings. This is an implicit bias that manifests even when people are mindful and focused on the task and across a range of judgment types (auction bids, visual perception, purchase intent, willingness to pay). Implicating the role of reliance on implicit memory in this interference effect, the rating polarity effect is moderated by (1) cultural norms that define the implicit numerical association, (2) construal mindsets that encourage reliance on implicit memory, and (3) individual propensity to rely on implicit memory. This research identifies a new form of proactive interference for numerical associations, demonstrates how reliance on implicit memory can interfere with explicit memory, and shows how to attenuate such interference.

Power Moves Beyond Complementarity: A Staring Look Elicits Avoidance in Low Power Perceivers and Approach in High Power Perceivers

Mario Weick, Cade McCall & Jim Blascovich

Personality and Social Psychology Bulletin 43(8): 1188-1201 (June 2017)

Sustained, direct eye-gaze—staring—is a powerful cue that elicits strong responses in many primate and nonprimate species. The present research examined whether fleeting experiences of high and low power alter individuals' spontaneous responses to the staring gaze of an onlooker. We report two experimental studies showing that sustained, direct gaze elicits spontaneous avoidance tendencies in low power perceivers and spontaneous approach tendencies in high power perceivers. These effects emerged during interactions with different targets and when power was manipulated between-individuals (Study 1) and within-individuals (Study 2), thus attesting to a high degree of flexibility in perceivers' reactions to gaze cues. Together, the present findings indicate that power can break the cycle of complementarity in individuals' spontaneous responding: Low power perceivers complement and move away from, and high power perceivers reciprocate and move toward, staring onlookers.

Uncertainty Increases the Reliance on Affect in Decisions

Ali Faraji-Rad & Michel Tuan Pham

Journal of Consumer Research 44(1): 1-21 (June 2017)

How do psychological states of uncertainty influence the way people make decisions? The authors propose that such states increase the reliance on affective inputs in judgments and decisions. In accord with this proposition, results from six studies show that the priming of uncertainty (vs. certainty) consistently increases the effects of a variety of affective inputs on consumers' judgments and decisions. Primed uncertainty is shown to amplify the effects of the pleasantness of a musical soundtrack (study 1), the attractiveness of a picture (study 2), the appeal of affective attributes (studies 3 and 4), incidental mood states (study 6), and even incidental states of disgust (study 5). Moreover, both negative and positive uncertainty increase the influence of affect in decisions (study 4). The results additionally show that the increased reliance on affective inputs under uncertainty does not necessarily come at the expense of a reliance on descriptive attribute information (studies 2 and 5), and that the increased reliance on affect under uncertainty is distinct from a general reliance on heuristic or peripheral cues (study 6). The phenomenon may be due to uncertainty threatening the self, thereby encouraging a reliance on inputs that are closer to the self and have high subjective validity. [DRM Winter 2018]

Does Uncertainty Cause Inertia in Decision Making? An Experimental Study of the Role of Regret Aversion and Indecisiveness

Santiago I. Sautua

Journal of Economic Behavior & Organization 136: 1-14 (April 2017)

Previous research has shown that individual decision making is often characterized by inertia—that is, a tendency for decision makers to choose options that maintain the status quo. In this study, I conduct a laboratory experiment to investigate two potential determinants of inertia in uncertain environments: (i) regret aversion and (ii) ambiguity-driven indecisiveness. I use a between-subjects design with varying conditions to identify the effects of these two mechanisms on choice behavior. In each condition, participants choose between two simple real gambles, one of which is the status quo option. The findings indicate that regret aversion and ambiguity-driven indecisiveness are equally important determinants of inertia, which in turn plays a major role in individual decision making.

The Effects of Perceived Procedural Justice on Conflict Management between Spouses, and the Mediating Role of Dyadic Adjustment

Inbal Peleg-Koriat, Noa Nelson & Rachel Ben-ari

Negotiation Journal 33(2): 129–152 (April 2017)

In this study, we examined the role that perceived procedural justice (PPJ) plays in the conflict management behaviors that intimate spouses adopt and endorse. In this context, PPJ has been defined as the degree to which one perceives that his or her spouse makes decisions fairly, considerately, and in a participatory manner. To test the impact of perceived procedural justice on conflict resolution behavior, we applied the dual-concern model of conflict management style. In an experiment in which participants read fictional scenarios and predicted spouses' responses, we found that perceptions of strong PPJ enhanced the prediction of integrating (problem solving), compromising, and, to a lesser degree, obliging behavior. Perceived procedural justice also caused a reduction in avoidance behavior, but no effect we found on dominating

(competing) behavior. In a following correlational study, we also found that PPJ positively correlated to enhanced integrating, compromising, and obliging behaviors, and these correlations were partially or fully mediated by the degree of “dyadic adjustment,” which is a measure of relationship health. In addition, in this second study, we found no correlation between perceived procedural justice and dominating or avoiding behavior. In both studies, participants either predicted or chose collaborative behaviors more than non-collaborative ones. We conclude that the perception that one's partner is behaving in a procedurally just way can enhance active and egalitarian collaboration in marriage and other intimate partner relationships, but that the absence of PPJ does not seem to encourage active non-collaboration, particularly not highly self-centered dominating behavior.

Choosing One at a Time? Presenting Options Simultaneously Helps People Make More Optimal Decisions Than Presenting Options Sequentially

Shankha Basu & Krishna Savani

Organizational Behavior and Human Decision Processes 139: 76-91 (March 2017)

This research examines an element of choice architecture that has received little attention—whether options are presented simultaneously or sequentially. Participants were more likely to choose dominating options when the options were presented simultaneously rather than sequentially, both when the dominance relationship was transparent (Experiment 1) and when it was not (Experiments 2–3). Depth of cognitive processing mediated the effect of option presentation on optimal choice (Experiment 4). Memory load was unlikely to be the underlying mechanism, as individual differences in working memory span did not predict optimal choice in the sequential condition (which places a greater memory load; Experiment 5), and manipulations of memory load did not reduce the benefits of simultaneous presentation (Experiments 6a–6c). Instead, participants’ working memory span predicted optimal choice in the simultaneous condition (which allows for more in-depth processing; Experiment 5), and a manipulation of processing load eliminated the benefits of simultaneous presentation (Experiment 7).

Repairing the Damage: The Effect of Price Expectations on Auto-Repair Price Quotes

Meghan Busse, Ayelet Israeli & Florian Zettelmeyer

Journal of Marketing Research 54(1): 75-95 (February 2017)

The authors investigate whether sellers treat consumers differently on the basis of how well informed consumers appear to be. They implement a large-scale field experiment in which callers request price quotes from automotive repair shops. The authors show that sellers alter their initial price quotes depending on whether consumers appear to be correctly informed, uninformed, or misinformed about market prices. The authors find that repair shops quote higher prices to callers who cite a higher benchmark price and that women are quoted higher prices than men when callers signal that they are uninformed about market prices. However, gender differences disappear when callers mention a benchmark price for the repair. Finally, the authors find that repair shops are more likely to offer a price concession if asked to do so by a woman than if asked by a man.

Beyond Skepticism: Can Accessing Persuasion Knowledge Bolster Credibility

Mathew S. Isaac & Kent Grayson

Journal of Consumer Research 43(6): 895-912 (January 2017)

As defined by Friestad and Wright (1994), “persuasion knowledge” is personal knowledge about persuasion attempts that consumers develop and use whenever they believe they are targets of persuasion. A significant majority of research on persuasion knowledge has suggested that persuasion knowledge and skepticism invariably go hand in hand, and that accessing persuasion knowledge therefore leads consumers to evaluate the agent and its offering less favorably. Across four studies, the authors demonstrate the novel effect that persuasion knowledge access can lead to greater credibility (rather than greater skepticism), a finding that they argue is theoretically consistent with Friestad and Wright’s (1994) Persuasion Knowledge Model. Further, the authors demonstrate that when a persuasive agent uses a credible tactic, persuasion knowledge access can lead consumers to evaluate the agent and its offering more (rather than less) favorably. They also develop and test a new approach for increasing persuasion knowledge access in lab experiments, which can facilitate the investigation of other occasions where persuasion knowledge access increases trust and belief in a persuasive message.

Why Wait to Settle? An Experimental Test of the Asymmetric Information Hypothesis

Sean Patrick Sullivan

The Journal of Law and Economics 59(3): 497-525 (2016)

The US legal system encourages civil litigants to quickly settle their disputes, yet lengthy and expensive delays often precede private settlements. The causes of these delays are uncertain. This paper describes an economic experiment designed to test one popular hypothesis: that asymmetric information might be a contributing cause of observed settlement delays. Experimental results provide strong evidence that asymmetric information can delay settlements, increasing average time to settlement by as much as 90 percent in some treatments. This causal relationship is robustly observed across different bargaining environments. On the other hand, results do not obviously confirm all aspects of the game-theoretic explanation for this relationship and suggest that asymmetric information may be only one of several contributing causes of settlement delay. [DRM Winter 2015]

Bargaining Zone Distortion in Negotiations: The Elusive Power of Multiple Alternatives

Michael Schaerer, David D. Loschelder & Roderick I. Swaab

Organizational Behavior and Human Decision Processes 137: 156-171 (November 2016)

We challenge the assumption that having multiple alternatives is always better than a single alternative by showing that negotiators who have additional alternatives ironically exhibit downward-biased perceptions of their own and their opponent’s reservation price, make lower demands, and achieve worse outcomes in distributive negotiations. Five studies demonstrate that the apparent benefits of multiple alternatives are elusive because multiple alternatives led to less ambitious first offers (Studies 1–2) and less profitable agreements (Study 3). This distributive disadvantage emerged because negotiators’ perception of the bargaining zone was more distorted when they had additional (less attractive) alternatives than when they only had a single alternative (Studies 1–3). We further found that this multiple-alternatives disadvantage only emerges when negotiators used quantitative (versus qualitative) evaluation standards to gauge the extremity of their offers (Study 4), and when they base their offers on their own numerical alternative(s) versus on opponent information (Study 5). [DRM Winter 2017]

Money and Relationships: When and Why Thinking About Money Leads People to Approach Others

Fei Teng, Zhansheng Chen, Kai-Tak Poon, Denghao Zhang & Yuwei Jiang

Organizational Behavior and Human Decision Processes 137: 58-70 (November 2016)

Monetary reminders have been shown to discourage people from affiliating with others. We proposed such an effect can be reversed when others are instrumental to people's goals. Results from four experiments converged to support our proposition. We found that thinking about money increased people's focus on the instrumentality aspects of others (Experiment 1). In a goal pursuit context, monetary reminders increased people's tendency to approach others who were instrumental to achieving their goals (Experiment 2). The effect of money prime on approaching others was dismissed or reversed when people were highly competent in achieving the goal themselves (Experiment 3) and when the instrumentality of others was ambiguous (Experiment 4). Moreover, these effects were driven by the perceived instrumentality of others (Experiments 2–4). Taken together, our findings suggest that thinking about money leads to an instrumentality orientation in social interactions, which changes how people view relationships and how they interact with others.

Dancing on the Slippery Slope: The Effects of Appropriate Versus Inappropriate Competitive Tactics on Negotiation Process and Outcome

Denise Fleck, Roger Volkema & Sergio Pereira

Group Decision and Negotiation 25(5): 873-899 (September 2016)

As negotiation is critical to all forms of organizational decision-making, researchers have shown an interest in understanding how the flow of information (valid and otherwise) influences this process. Often, competitive, questionable, and unethical tactics have been treated as interchangeable in these studies, despite presumed differences in appropriateness. The purpose of this study was to examine the similarities and differences in negotiators' use and efficacy of appropriate competitive tactics (e.g., exaggerated offers) versus inappropriate competitive tactics (e.g., factual misrepresentations), primarily through a negotiation simulation. The study found that although these two categories of tactics were correlated in terms of overall use, appropriate competitive behaviors were used more frequently, especially early in negotiations, and these behaviors often resulted in comparable responses from counterparts. While ultimately increasing the likelihood of a negotiation impasse, the use of appropriate competitive tactics improved an individual's substantive outcome where agreements could be reached. Inappropriate competitive tactics were likely to increase in number the sooner they were first employed in negotiations, with a response of inappropriate competitive tactics to the first use of competitive tactics increasing the likelihood of subsequent use of inappropriate tactics. The implications of these and other findings for both practitioners and future research are discussed.

Why Do People Tend to Infer “Ought” From “Is”? The Role of Biases in Explanation

Christina M. Tworek & Andrei Cimpian

Psychological Science 27: 1109-1122 (August 2016)

People tend to judge what is typical as also good and appropriate—as what ought to be. What accounts for the prevalence of these judgments, given that their validity is at best uncertain? We hypothesized that the tendency to reason from “is” to “ought” is due in part to a systematic bias in people's (nonmoral) explanations, whereby regularities (e.g., giving roses on Valentine's Day) are explained predominantly via inherent or intrinsic facts (e.g., roses are

beautiful). In turn, these inherence-biased explanations lead to value-laden downstream conclusions (e.g., it is good to give roses). Consistent with this proposal, results from five studies (N = 629 children and adults) suggested that, from an early age, the bias toward inherence in explanations fosters inferences that imbue observed reality with value. Given that explanations fundamentally determine how people understand the world, the bias toward inherence in these judgments is likely to exert substantial influence over sociomoral understanding.

Mutual Persuasion

Giuseppe Dari-Mattiacci & Davide Grossi

Amsterdam Law School Research Paper No. 2016-41 (August 2016). Available at SSRN: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2841160

Two agents have to collectively select one of two options. They are endowed with a personal bias, each in favor of a different option, and they observe a private signal with known quality. They then need to reveal their private signal to the other agent, but may decide to withhold some of the evidence the private signal provides, in order to persuade the other agent in the direction of their own bias. We present a Bayesian model capturing this form of persuasion. The model applies to a variety of phenomena, including political discussions, settlement negotiations and trade.

Models of Affective Decision Making: How Do Feelings Predict Choice?

Caroline J. Charpentier, Jan-Emmanuel De Neve, Xinyi Li, Jonathan P. Roiser & Tali Sharot
Psychological Science 27: 763-775 (June 2016)

Intuitively, how you feel about potential outcomes will determine your decisions. Indeed, an implicit assumption in one of the most influential theories in psychology, prospect theory, is that feelings govern choice. Surprisingly, however, very little is known about the rules by which feelings are transformed into decisions. Here, we specified a computational model that used feelings to predict choices. We found that this model predicted choice better than existing value-based models, showing a unique contribution of feelings to decisions, over and above value. Similar to the value function in prospect theory, our feeling function showed diminished sensitivity to outcomes as value increased. However, loss aversion in choice was explained by an asymmetry in how feelings about losses and gains were weighted when making a decision, not by an asymmetry in the feelings themselves. The results provide new insights into how feelings are utilized to reach a decision.

Measuring Intuition: Nonconscious Emotional Information Boosts Decision Accuracy and Confidence

Galang Lufityanto, Chris Donkin & Joel Pearson

Psychological Science 27: 622-634 (May 2016)

The long-held popular notion of intuition has garnered much attention both academically and popularly. Although most people agree that there is such a phenomenon as intuition, involving emotionally charged, rapid, unconscious processes, little compelling evidence supports this notion. Here, we introduce a technique in which subliminal emotional information is presented to subjects while they make fully conscious sensory decisions. Our behavioral and physiological data, along with evidence-accumulator models, show that nonconscious emotional information can boost accuracy and confidence in a concurrent emotion-free decision task, while also speeding up response times. Moreover, these effects were contingent on the specific

predictive arrangement of the nonconscious emotional valence and motion direction in the decisional stimulus. A model that simultaneously accumulates evidence from both physiological skin conductance and conscious decisional information provides an accurate description of the data. These findings support the notion that nonconscious emotions can bias concurrent nonemotional behavior—a process of intuition.

The Pandora Effect: The Power and Peril of Curiosity

Christopher K. Hsee & Bown Ruan

Psychological Science 27: 659-666 (May 2016)

Curiosity—the desire for information—underlies many human activities, from reading celebrity gossip to developing nuclear science. Curiosity is well recognized as a human blessing. Is it also a human curse? Tales about such things as Pandora’s box suggest that it is, but scientific evidence is lacking. In four controlled experiments, we demonstrated that curiosity could lead humans to expose themselves to aversive stimuli (even electric shocks) for no apparent benefits. The research suggests that humans possess an inherent desire, independent of consequentialist considerations, to resolve uncertainty; when facing something uncertain and feeling curious, they will act to resolve the uncertainty even if they expect negative consequences. This research reveals the potential perverse side of curiosity, and is particularly relevant to the current epoch, the epoch of information, and to the scientific community, a community with high curiosity.

For a Dollar, Would You...? How (We Think) Money Affects Compliance With Our Requests

Vanessa K. Bohnsa, Daniel A. Newark & Amy Z. Xuc

Organizational Behavior and Human Decision Processes 134: 45-62 (May 2016)

Research has shown a robust tendency for people to underestimate their ability to get others to comply with their requests. In five studies, we demonstrate that this underestimation-of-compliance effect is reduced when requesters offer money in exchange for compliance. In Studies 1 and 2, participants assigned to a no-incentive or monetary-incentive condition made actual requests of others. In both studies, requesters who offered no incentives underestimated the likelihood that those they approached would grant their requests; however, when requesters offered monetary incentives, this prediction error was mitigated. In Studies 3–5, we present evidence in support of a model to explain the underlying mechanism for this attenuation effect. Studies 3 and 4 demonstrate that offering monetary incentives activates a money-market frame. In Study 5, we find that this activation reduces the discomfort associated with asking, allowing requesters to more accurately assess the size of their request and, consequently, the likelihood of compliance.

Incidental Fear Cues Increase Monetary Loss Aversion

Stefan Schulreich, Holger Gerhardt & Hauke R. Heekeren

Emotion 16(3): 402-412 (April 2016)

In many everyday decisions, people exhibit loss aversion—a greater sensitivity to losses relative to gains of equal size. Loss aversion is thought to be (at least partly) mediated by emotional—in particular, fear-related—processes. Decision research has shown that even incidental emotions, which are unrelated to the decision at hand, can influence decision making. The effect of incidental fear on loss aversion, however, is thus far unclear. In two studies, we

experimentally investigated how incidental fear cues, presented during (Study 1) or before (Study 2) choices to accept or reject mixed gambles over real monetary stakes, influence monetary loss aversion. We find that the presentation of fearful faces, relative to the presentation of neutral faces, increased risk aversion—an effect that could be attributed to increased loss aversion. The size of this effect was moderated by psychopathic personality: Fearless dominance, in particular its interpersonal facet, but not self-centered impulsivity, attenuated the effect of incidental fear cues on loss aversion, consistent with reduced fear reactivity. Together, these results highlight the sensitivity of loss aversion to the affective context.

Bargaining Under Time Pressure

Emin Karagozolu & Martin G. Kocher

CESifo Working Paper Series No. 5685 (January 2016). Available at SSRN:

<http://ssrn.com/abstract=2727156>

We experimentally investigate the effect of time pressure in a rich-context, unstructured bargaining game with earned status and competing reference points. Our results show that average opening proposals, concessions, and agreed shares are very similar across different levels of time pressure. Nevertheless, as predicted, time pressure systematically influenced agreements. In particular, the likelihood of bargainers reaching the explicit reference point outcome in agreements increases with time pressure, and the likelihood of reaching the implicit reference point (equal division) in agreements decreases with time pressure. Disagreement rates and the frequency of last-moment agreements are strongly affected: the disagreement rate rises dramatically with time pressure, and last-moment agreements are significantly more frequent. This effect is explained by a stronger connection between the tension in first proposals and the final bargaining outcome under time pressure than without time pressure.

The Prospect of a Perfect Ending: Loss Aversion and The Round-Number Bias

P. Fraser-Mackenzie, M. Sung & J.E.V. Johnson

Organizational Behavior and Human Decision Processes 131: 67-80 (November 2015)

Studies across a range of domains have shown that individuals tend to focus on round numbers as cognitive reference points; a so-called left-digit effect. We explain this effect by combining analog numerical heuristics with prospect theory in order to develop an analog value function that predicts the key characteristics of the left-digit effect. Most importantly, this value function predicts an unreported phenomenon, namely; that the left-digit effect will be more pronounced in situations involving losses (cf. gains). We confirm this prediction in both a laboratory experiment regarding hypothetical investments and analysis of buy–sell imbalances in over 15 million trades by investors in a financial market. We conclude that our analog value function is a promising explanation for the left-digit effect. Furthermore, we suggest that interventions aimed at reducing costly buy–sell imbalances in financial markets should focus on the decisions made by investors when they are facing loss.

Pushing Away From Representative Advice: Advice Taking, Anchoring, and Adjustment

Christina A. Rader, Jack B. Soll & Richard P. Larrick

Organizational Behavior and Human Decision Processes 130: 26-43 (September 2015)

Five studies compare the effects of forming an independent judgment prior to receiving advice with the effects of receiving advice before forming one's own opinion. We call these the independent-then-revise sequence and the dependent sequence, respectively. We found that

dependent participants adjusted away from advice, leading to fewer estimates close to the advice compared to independent-then-revise participants (Studies 1–5). This “push-away” effect was mediated by confidence in the advice (Study 2), with dependent participants more likely to evaluate advice unfavorably and to search for additional cues than independent-then-revise participants (Study 3). Study 4 tested accuracy under different advice sequences. Study 5 found that classic anchoring paradigms also show the push-away effect for median advice. Overall, the research shows that people adjust from representative (median) advice. The paper concludes by discussing when push-away effects occur in advice taking and anchoring studies and the value of independent distributions for observing these effects.

Seeing the Other Side: Perspective Taking and the Moderation of Extremity

Hannah M. Tuller, Christopher J. Bryan, Gail D. Heyman & Nicholas J. S. Christenfeld
Journal of Experimental Social Psychology 59: 18-23 (July 2015)

Recognizing the reasonableness of others’ positions is important for conflict reduction, but is notoriously hard. The authors tested a perspective-taking approach to decreasing attitude entrenchment. Participants were held accountable in a task in which they wrote about a controversial issue from the perspective of a partner with an opposing viewpoint. This approach was effective at changing views on controversial issues—in Study 1 on weight discrimination, an issue participants were unlikely to have thought much about, and in Study 2 on abortion, where beliefs tend to be more deeply held. Studies 3 and 4 showed this change only took place under conditions where participants met the individual with an opposing view in person, and where that individual would see the perspective-taking effort. These results suggest that it is possible to reduce attitude entrenchment by encouraging people to think about the opposing perspective of another, as long as there is real contact and accountability. [DRM Summer 2015]

Self-Interest Bias in Moral Judgments of Others’ Actions

Konrad Bocian & Bogdan Wojciszke
Personality and Social Psychology Bulletin 40(7): 898-909 (2014)

The automatic and affective nature of moral judgments leads to the expectation that these judgments are biased by an observer’s own interests. Although the idea of self-interest bias is old, it has never been directly tested with respect to the moral judgments of other individuals’ behaviors. The participants of three experiments observed other individuals’ counternormative behavior (breaking a rule or cheating for gain), which was judged as immoral. However, this judgment became much more lenient when the observers gained from the observed behavior. All three studies showed that the influence of self-interest on moral judgments was completely mediated by the observer’s increased liking for the perpetrator of the immoral acts but not by changes in mood. When the participants were induced to dislike the perpetrator (in a moderation-of-process design), the self-interest bias disappeared. Implications for the intuitionist approach to moral judgment are discussed.

Do You Want the Good News or the Bad News First? The Nature and Consequences of News Order Preferences

Angela M. Legg & Kate Sweeny
Personality and Social Psychology Bulletin 40(3): 279–288 (2014)

Information often comes as a mix of good and bad news, prompting the question, “Do you want the good news or the bad news first?” In such cases, news-givers and news-recipients

differ in their concerns and considerations, thus creating an obstacle to ideal communication. In three studies, we examined order preferences of news-givers and news-recipients and the consequences of these preferences. Study 1 confirmed that news-givers and news-recipients differ in their news order preferences. Study 2 tested two solutions to close the preference gap between news-givers and recipients and found that both perspective-taking and priming emotion-protection goals shift news-givers' delivery patterns to the preferred order of news-recipients. Study 3 provided evidence that news order has consequences for recipients, such that opening with bad news (as recipients prefer) reduces worry, but this emotional benefit undermines motivation to change behavior.

Avoiding the Agreement Trap: Teams Facilitate Impasse in Negotiations with Negative Bargaining Zones

Taya R. Cohen, Geoffrey J. Leonardelli & Leigh Thompson
Negotiation and Conflict Management Research 7: 232–242 (2014)

Effective negotiation requires understanding not only how to “get to yes” but also when and how to say no. The *agreement trap* can occur in situations in which mutual agreement is not viable because parties' interests cannot simultaneously be met. Two experiments tested whether teams are more adept than solos at avoiding the agreement trap. These studies compared teams and solos in a negotiation involving a real-estate transaction in which the optimal solution was for the parties to declare an impasse. Study 1 found that two- and three-person teams were more likely than solos to impasse. Study 2 found that the party faced with the greater need to make accurate judgments about the alignment between their own and their counterpart's interests benefited most from the addition of a teammate. Our findings suggest one factor underlying the agreement trap (faulty judgment) and a potential solution (greater information processing capability via teams). [DRM Summer 2015]

Decision Time as Information in Judgment and Choice

Philippe P.F.M. Van de Calseyde, Gideon Keren & Marcel Zeelenberg
Organizational Behavior and Human Decision Processes 125(2): 113-122 (2014)

People often observe others' decisions and the corresponding time it took them to reach the decision. In this study, the authors demonstrate that people derive information from the time that others needed in reaching a decision. Specifically, the findings of multiple experiments and a field study using data from the television show *The Voice* reveal that decision times are perceived as indicative of the degree of doubt that the decision maker experienced. In turn, these inferences of doubt reliably affected people's preferences such as with whom to collaborate and negotiate, even when the collaboration would yield a normatively inferior outcome. These results are incompatible with the idea that an alternative will be chosen only on the basis of its outcomes. Instead, the authors portray a model that incorporates others' decision times as a component of the choice process. [DRM Summer 2015]

Judging a Part by the Size of its Whole: The Category Size Bias in Probability Judgments

Mathew S. Isaac & Aaron R. Brough
Journal of Consumer Research 41(2): 310-325 (August 2014)

Whereas prior research has found that consumers' probability judgments are sensitive to the number of categories into which a set of possible outcomes is grouped, this article demonstrates that categorization can also bias predictions when the number of categories is

fixed. Specifically, five experiments document a category size bias in which consumers perceive an outcome as more likely to occur when it is categorized with many rather than few alternative possibilities, even when the grouping criterion is irrelevant and the objective probability of each outcome is identical. For example, participants in one study irrationally predicted being more likely to win a lottery if their ticket color matched many (vs. few) of the other gamblers' tickets—and wagered nearly 25% more as a result. These findings suggest that consumers' perceptions of risk and probability are influenced not only by the number of categories into which possible outcomes are classified but also by category size.

When Parity Promotes Peace: Resolving Conflict Between Asymmetric Agents

Erik O. Kimbrough, Roman M. Sheremeta & Timothy W. Shields

Journal of Economic Behavior & Organization 99: 96-108 (March 2014)

Due to the high costs of conflict both in theory and practice, we examine and experimentally test the conditions under which conflict between asymmetric agents can be resolved. We model conflict as a two-agent rent-seeking contest for an indivisible prize. Before conflict arises, both agents may agree to allocate the prize by fair coin flip to avoid the costs of conflict. The model predicts that “parity promotes peace”: in the pure-strategy equilibrium, agents with relatively symmetric conflict capabilities agree to resolve the conflict by using a random device; however, with sufficiently asymmetric capabilities, conflicts are unavoidable because the stronger agent prefers to fight. The results of the experiment confirm that the availability of the random device partially eliminates conflicts when agents are relatively symmetric; however, the device also reduces conflict between substantially asymmetric agents.

Egocentrism Drives Misunderstanding in Conflict and Negotiation

John R. Chambers & Carsten K.W. De Dreu

Journal of Experimental Social Psychology 51: 15–26 (March 2014)

A key barrier to effective conflict resolution is that parties often exaggerate the degree to which the other side's interests oppose their own. In this paper, the authors examine egocentrism as a fundamental source of such biased conflict perceptions. They propose that when assessing the interests and priorities of the other side, parties rely on their own interests and priorities, ignoring those of their opponents. Three experiments involving multi-issue negotiations provide strong evidence of such egocentric misperception. In the first experiment, participants judged their own important issues to be important to their negotiation opponent, regardless of the opponent's actual interests. In the second, accuracy in perceptions of the opponent's interests increased when attention was experimentally focused on those interests rather than on the party's own. The third experiment found that a participant's perceptions of the opponent's interests were more closely related to the participant's own interests than to the opponent's actual interests. Although the authors demonstrate that egocentrism may often blind disputants to opportunities for tradeoffs, their research also shows that focusing disputants on the opponents' interests can undermine egocentrism and allow for constructive negotiation. In the discussion, the authors highlight the broader implications of egocentrism for other areas of conflict. [DRM Summer 2014]

Barriers to Transforming Hostile Relations: Why Friendly Gestures Can Backfire

Tanya Menon, Oliver J. Sheldon & Adam D. Galinsky

Negotiation and Conflict Management Research 7(1): 17-37 (January 2014)

Friendly gestures (e.g., smiles, flattery, favors) typically build trust and earn goodwill. However, the authors propose that people feel unsettled when enemies initiate friendly gestures. To resolve these sense-making difficulties, people find order through superstitious reasoning about friendly enemies. Across three experiments, the authors found that enemies' friendly gestures led counterparts to blame them, perceive future contact with them as unlucky, and avoid them. Individuals high in need of structure were especially prone to make these attributions. Taken together, these results suggest that rather than transforming hostile relationships, an enemy's friendliness can be so unnerving that it sometimes leads people down blind alleys of superstitious reasoning. [DRM Summer 2014]

Money, Well-Being, and Loss Aversion: Does an Income Loss Have a Greater Effect on Well-Being Than an Equivalent Income Gain?

Christopher J. Boyce, Alex M. Wood, James Banks, Andrew E. Clark & Gordon A. Brown
Psychological Science 24(12): 2557–2562 (December 2013)

Higher income is associated with greater well-being, but do income gains and losses affect well-being differently? Loss aversion, whereby losses loom larger than gains, is typically examined in relation to decisions about anticipated outcomes. Here, using subjective-well-being data from Germany (N = 28,723) and the United Kingdom (N = 20,570), we found that losses in income have a larger effect on well-being than equivalent income gains and that this effect is not explained by diminishing marginal benefits of income to well-being. Our findings show that loss aversion applies to experienced losses, challenging suggestions that loss aversion is only an affective-forecasting error. By failing to account for loss aversion, longitudinal studies of the relationship between income and well-being may have overestimated the positive effect of income on well-being. Moreover, societal well-being might best be served by small and stable income increases, even if such stability impairs long-term income growth.

In the Eye of the Beholder: Eye Contact Increases Resistance to Persuasion

Frances S. Chen, Julia A. Minson, Maren Schöne & Markus Heinrichs
Psychological Science 24(11): 2254-2261 (November 2013)

Popular belief holds that eye contact increases the success of persuasive communication. However, two recent studies demonstrate that more eye contact between the listener and speaker during persuasive communication predicts less attitude change in the direction advocated. These findings highlight that eye contact can signal very different kinds of messages, ranging from attraction and interest to aggression and a desire to intimidate. Prolonged eye contact in a tense or adversarial interaction is likely to be interpreted differently than it would be in a friendly interaction. Speakers attempting to use eye contact in a persuasion attempt are advised to pay attention to their listener's body language. If a listener seems receptive and open to a message, direct eye contact might have a positive impact on persuasion. However, if he or she seems upset or overwhelmed or starts looking away, trying to force direct eye contact might backfire. [DRM Summer 2014]

Loss Aversion and Foreign Policy Resolve

Jeffrey Berejikian & Bryan Early
Political Psychology 34(5): 649-671 (October 2013)

This article draws upon recent findings from the field of neuroscience to explore how loss aversion affects foreign policy resolve. We theorize that U.S. policy makers are more resolute in

pursuing preventive policies that seek to avoid losses than they are in pursuing promotive policies that seek to acquire new gains. To test our theory, we conduct the first large-n analysis of foreign policy hypotheses derived from the neuroscience of loss aversion using data from 100 cases of U.S.-initiated Section 301 trade disputes. The results provide strong support for the loss-aversion-based theory, revealing that American policy makers are willing to fight harder and hold out longer in trade disputes with preventive objectives than they are in cases with promotive ones. Our study demonstrates that hypotheses derived from neuroscientific findings can be tested using large-n techniques in study of foreign policy, revealing a new avenue of inquiry within the field.

The Illusion of Saving Face: How People Symbolically Cope With Embarrassment

Ping Dong, Xun (Irene) Huang & Robert S. Wyer, Jr.

Psychological Science 24: 2005-2012 (October 2013)

People who feel embarrassed are often motivated to avoid social contact—that is, to hide their face. At the same time, they may be motivated to restore the positive image that has been tarnished by the embarrassing event (or, in other words, to restore the face lost in the event). Individuals can symbolically employ these coping strategies by choosing commercial products that literally either hide their face (e.g., sunglasses) or repair it (e.g., restorative cosmetics). However, the two coping strategies have different consequences. Although symbolically repairing one's face eliminates aversive feelings of embarrassment and restores one's willingness to engage in social activities, symbolically hiding one's face has little impact.

The Invisible Gorilla Strikes Again: Sustained Inattentive Blindness in Expert Observers

Trafton Drew, Melissa L.-H. Võ & Jeremy M. Wolfe

Psychological Science 24(9): 1848-1853 (September 2013)

Researchers have shown that people often miss the occurrence of an unexpected yet salient event if they are engaged in a different task, a phenomenon known as inattentive blindness. However, demonstrations of inattentive blindness have typically involved naive observers engaged in an unfamiliar task. What about expert searchers who have spent years honing their ability to detect small abnormalities in specific types of images? We asked 24 radiologists to perform a familiar lung-nodule detection task. A gorilla, 48 times the size of the average nodule, was inserted in the last case that was presented. Eighty-three percent of the radiologists did not see the gorilla. Eye tracking revealed that the majority of those who missed the gorilla looked directly at its location. Thus, even expert searchers, operating in their domain of expertise, are vulnerable to inattentive blindness.

Predictive and Reactive Mechanisms in Smile Reciprocity

Erin A. Heerey & Helen M. Crossley

Psychological Science 24(8): 1446-1455 (August 2013)

During face-to-face interactions, people reciprocate their conversation partners' genuine and polite smiles with matching smiles. In the research reported here, we demonstrated that predictive mechanisms play a role in this behavior. In natural interactions (Study 1), participants anticipated a substantial proportion of genuine smiles but almost no polite ones. We propose that reinforcement-learning mechanisms underpin this social prediction and that smile-reciprocity differences arise because genuine smiles are more rewarding than polite smiles. In Study 2, we tested this idea using a learning task in which correct responses were rewarded with genuine or

polite smiles. We measured participants' smile reactions with electromyography (EMG). As in natural interactions, people mimicked polite smiles reactively, after seeing them appear. Interestingly, the EMG data showed predictive responding to genuine smiles only. These results demonstrate that anticipating social rewards drives predictive social responding and therefore represent a significant advance in understanding the mechanisms that underpin the neural control of real-world social behavior.

Exploring the Impact of Various Shaped Seating Arrangements on Persuasion

Rui (Juliet) Zhu & Jennifer J. Argo

Journal of Consumer Research 40(2): 336-349 (August 2013)

Despite the common belief that seating arrangements matter, little research has examined how the geometrical shape of a chair arrangement can impact persuasion. Across three studies, this research demonstrates that the shape of seating arrangements can prime two fundamental human needs, which in turn influence persuasion. When seated in a circular-shaped layout, individuals evaluate persuasive material more favorably if it contains family-oriented cues or majority endorsement information. In contrast, when seated in an angular-shaped seating arrangement, individuals evaluate persuasive material more favorably when it contains self-oriented cues or minority endorsement. Further, results reveal that these responses to persuasive material arise because circular-shaped seating arrangements prime a need to belong, while angular-shaped seating arrangements prime a need to be unique. Thus, this research shows that a subtle environmental cue – the shape of a seating arrangement – can activate fundamental human needs and consequently affect persuasion. [DRM Winter 2014]

Intentional Harms Are Worse, Even When They're Not

Daniel L. Ames & Susan T. Fiske

Psychological Science 24(7): 1755-1762 (July 2013)

People and societies seek to combat harmful events. However, because resources are limited, every wrong righted leaves another wrong left unchecked. Responses must therefore be calibrated to the magnitude of the harm. One under-appreciated factor that affects this calibration may be people's over-sensitivity to intent. Across a series of studies, the authors found that people saw intended harms as worse than unintended harms, even though the two harms were identical. This harm-magnification effect is attributable to differences in blame motivation and occurred for both subjective and monetary estimates of harm, and it remained when participants were given incentives to be accurate. People may therefore focus on intentional harms to the neglect of unintentional (but equally damaging) harms. [DRM Winter 2014]

Accentuation of Bias in Jury Decision-Making

Masami Takada & Koji Murata

Group Processes & Intergroup Relations 17(1): 110-124 (June 2013)

We investigated the bias accentuation effect of group decision-making. Previous studies have shown that individuals were more likely to endorse the guilty verdict when the prosecution evidence was presented in a temporal order (story condition) than when the same evidence was presented in a nontemporal order (witness condition). We expected that group deliberation would accentuate this biasing effect of evidence order through a majority-wins process. Sixty-six 3-person groups engaged in a mock jury task either in the story or witness condition. As predicted, group deliberation accentuated the difference in the verdict judgments between the two

conditions through a majority-wins/leniency asymmetry process. This accentuation effect was not moderated by how juries deliberated (evidence-driven vs. verdict-driven). Some theoretical and practical implications of these findings were discussed.

RESTORATIVE JUSTICE

Restorative Justice and Youth Offenders in Nebraska

Kristen M. Blankley & Alisha Caldwell Jimenez
Nebraska Law Review 98: 1-55 (2019)

This Article primarily serves as a case study for the recently implemented VYC program utilized in Nebraska for youth offenders both in the school and in the community. To accomplish this goal, this Article proceeds as follows. The first section provides an overview of restorative justice to put the Nebraska program in context. The second section briefly discusses the history of restorative justice in Nebraska to demonstrate Nebraska's commitment to restorative processes in other areas of the law. In the third section, this Article gives significant detail on the recent VYC program piloted in Nebraska, which are now being rolled out statewide. The Article highlights the successes of the programs and discusses some of the shortcomings of the program. The authors hope this Article showcases the good work currently being done while giving advice for improvements to make the system even better.

State of Knowledge: Four Decades of Victim-Offender Mediation Research and Practice: The Evidence

Toran Hansen & Mark Umbreit
Conflict Resolution Quarterly 36(2): 99-113 (December 2018)

This paper provides an overview of 40 years of victim-offender mediation evaluation research. This research demonstrates that victims and offenders are more satisfied with the process and outcomes than with the courts, they are more likely to draft and complete restitution agreements, they derive psychosocial benefits, the process is less expensive, crime victims are more likely to receive apologies from offenders, and offenders are less likely to recidivate. These benefits are not necessarily uniformly distributed. This "first wave" research provides a platform for the second wave, currently underway. To contextualize these findings, current and future victim-offender mediation practices are outlined.

Police Perceptions of Restorative Justice: Findings From a Small-Scale Study

Paul Gavin & Allyson MacVean
Conflict Resolution Quarterly 36(2): 115-130 (December 2018)

This paper considers the views and perceptions of police officers and staff from a local police force in England, on the training provided in, and use of, restorative justice. These views were obtained through the use of an online questionnaire as well as the recording of comments made by police officers and staff after one training session. While the overall sample is too small to draw any concrete conclusions, participants appeared to share views expressed in similar, larger studies. This study adds to the literature on restorative justice as police views in this area are underresearched in England and Wales.

The Use of Restorative Practices to Reduce Prison Gang Violence: Lessons on Transforming Cultures of Violence

Jordan J. Nowotny & Maristela Carrara

Conflict Resolution Quarterly 36(2): 131-144 (December 2018)

In 2016, one of the largest and most violent prisons in Brazil trained staff to use restorative circles to help mediate gang-related conflicts. To better understand how restorative practices are envisioned and being implemented in this setting, and to evaluate the likelihood that this project continues, semistructured interviews were conducted with prisoners and institutional staff. We argue that, although the initial levels of violence are reportedly lower, understandings of restorative philosophies are filtered through a narrow security rationale that limits institutional and cultural change.

Receptivity to Restorative Justice: A Survey of Goal Importance, Process Effectiveness, and Support For Victim–Offender Conferencing

Gregory D. Paul & Emily C. Swan

Conflict Resolution Quarterly 36(2): 145-162 (December 2018)

As the use of restorative justice processes continues to grow in the West, it is helpful to understand the factors that influence people's support for the use of restorative processes. Working from a conflict goals perspective, this study explores how support for the use of victim–offender conferencing following instances of first-time, nonviolent offending by youth is influenced by perceived importance of justice outcomes, perceived effectiveness of conventional and restorative processes at accomplishing those outcomes, and perceived appropriateness of conventional and restorative processes. It concludes with a discussion of implications for restorative justice research and advocacy.

Reconciliation Sentiment Among Former Perpetrators of Violence During the Colombian Armed Conflict

Wilson López López, Dario León Rincón, Claudia Pineda-Marín & Etienne Mullet

Conflict Resolution Quarterly 36(2): 163-175 (December 2018)

This study assessed reconciliation sentiment among former members of Colombian paramilitary and guerilla groups. A total of 103 participants who were detained in rehabilitation centers were presented with an augmented version of the Reconciliation Sentiment Questionnaire. Overall, participants considered that they had achieved some measure of reconciliation with the people they harmed. Most viewed themselves as able to control their nervousness and impulses in situations in which victims were physically present or victims were simply evoked, and most felt sure, to a reasonable extent, that victims did not intend to seek vengeance. Nevertheless, a minority—mostly former members of the guerillas and detainees who did not attend rehabilitation programs—was not sure that acts of vengeance would not be attempted. A majority of participants was, to some extent, willing to trust and cooperate with former victims and probably the society at large. Only two, however, were totally convinced that it would be possible to do so.

Reoffending Analysis for Restorative Justice Cases 2008–2013

New Zealand Department of Justice (April 2014). Available at:

<https://www.justice.govt.nz/assets/Documents/Publications/rj-Reoffending-Analysis-for-Restorative-Justice-Cases-2008-2013-Summary-Results.pdf>

Key findings from this study include that:

- The reoffending rate for offenders who participated in restorative justice was 15% lower over the following 12-month period than comparable offenders and 7.5% lower over three years.
- Offenders who participated in restorative justice committed 26% fewer offences per offender within the following 12-month period than comparable offenders (20% fewer offences within three years).
- Restorative justice appeared to help reduce reoffending across many offence types including violence, property abuse/damage and dishonesty. However, the reoffending rate was not lower for restorative justice participants who committed a driving causing death/injury offence.
- The reoffending rate for Māori who participated in restorative justice was 16% lower over the following 12-month period than comparable Māori offenders (6.9% lower over three years). Māori offenders who participated in restorative justice committed 37% fewer offences per offender within the next 12-month period than comparable Māori offenders (23% fewer offences within three years).
- The reoffending rate for young offenders (aged 17 to 19) who participated in restorative justice was 17% lower than comparable young offenders over the following 12-month period (8.9% lower over three years). Young offenders who participated in restorative justice committed 30% fewer offences per offender than comparable young offenders within 12 months (32% fewer offences within three years).

Exploring Communities of Facilitators: Orientations toward Restorative Justice

Gregory D. Paul & Ian M. Borton

Conflict Resolution Quarterly 31(2): 189-218 (Winter 2014)

Although current research on restorative justice largely has overlooked facilitators' roles in victim-offender conferences, research on third parties suggests that they are more than neutral process guides. The study examined in this article involved an exploration of restorative justice facilitators' backgrounds, perceived responsibilities, and ideal outcomes to arrive at a theory of facilitated justice rooted in facilitator orientation and conference context. Based on individual interviews with facilitators from two restorative justice organizations, the results of this study suggest the presence of four orientations rooted in participant orientation and outcome orientation. These orientations lead to the development of a theory of facilitated justice.

Restorative Justice Conferencing (RJC) Using Face-to-Face Meetings of Offenders and Victims: Effects on Offender Recidivism and Victim Satisfaction. A Systematic Review

Heather Strang, Lawrence W. Sherman, Evan Mayo-Wilson, Daniel Woods & Barak Ariel
Campbell Systematic Reviews 2013: 12 (November 2013), available at

<https://www.restorativejustice.org.uk/sites/default/files/resources/files/Campbell%20RJ%20review.pdf>

This review distils the strongest available evidence on the effectiveness of face-to-face restorative justice (RJ) in the reduction of repeat offending, relative to formal justice processes, and in the benefits it provides for victims. Those working in dispute resolution can use the review to help their practice by noting the findings about where RJ has been found most effective. To the surprise of some, RJ is most effective for more serious offenses, including violent crime, and perhaps more effective for adults than for juveniles. The evidence is limited at

present to just one type of RJ, and the authors urge caution about generalizing these results to other forms. But there is reason to be optimistic that RJ techniques employing the principles and processes found in this research can be used for more serious and complex disputes and conflicts and can be more successful than court processing for preventing future crime and giving victims what they seek from the justice system. [DRM Summer 2014]