



# DIGITAL ACCESS TO SCHOLARSHIP AT HARVARD

## Tribute to Roger Fisher

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HARVARD LAW REVIEW

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## IN MEMORIAM: ROGER FISHER

The editors of the *Harvard Law Review* respectfully dedicate this issue to Professor Roger Fisher.

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*Robert C. Bordone\**

It is the spring of 1997 and I am sitting in a Harvard classroom while Roger Fisher '48, Samuel Williston Professor of Law, Emeritus, is telling a story about his serving as a weather reconnaissance pilot in World War II. As a teaching assistant for the Negotiation Workshop, I have heard the story at least a dozen times by now and feel my mind wandering. And yet, against my will, as the story reaches its crescendo and the combination punch-line/negotiation lesson flows from Roger's lips, I find myself involuntarily leaning forward and, a second later, helplessly bursting into laughter. The note I jot down to myself is: "All of life is about who tells better stories."

Storytelling was indeed one of Roger's many fine talents. His sense of timing, the inflection of his voice, and his radiant smile seemed to be calibrated perfectly to his audiences, whether they were law students, diplomats, soldiers, or community mediators.

But teaching about "all of life" was Roger's real gift and his ongoing legacy for generations of students, political leaders, CEOs, and others whom he touched, directly or indirectly, through his work.

In certain ways, Roger did not fit in easily at Harvard Law School. In a profession that trains students to identify analytical gaps in others' reasoning and to posit critical arguments for why something — an idea, a vision, a reform — that might seem likely to happen at first glance couldn't, shouldn't, or wouldn't happen, Roger took a different tack. His energies seemed ever focused on figuring out how things that seemed unlikely could be made reality. In this way, he unwitting-

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ly exposed himself to charges that he was an ivory tower idealist, unaware of the harsh realities of a world filled with malevolence and evil.

But to those who knew him, to those who witnessed his sharp mind in action every day, just the opposite was true. Here was a man who, after serving in Europe in World War II, returned home to learn that his college roommate and two close friends had perished in the conflict; a man who, as a young State Department lawyer, assisted W. Averell Harriman in crafting the Marshall Plan; a man who served as a fierce and partisan advocate for the government, winning eight straight arguments before the U.S. Supreme Court as a young lawyer. Though he had witnessed the consequences and carnage of violent conflict, Roger somehow chose to see, engage, and elicit the best of human potential.

Roger was a master at the art of perspective-taking, of understanding how deep human needs — to be heard, valued, respected, autonomous, and safe — when unmet or trampled upon, become seeds of evil and violence, seeds that can cause us to villainize the other and that can motivate us to see the world in stark black and white terms. For Roger, the purpose of perspective-taking was never to excuse or justify evil. Rather, it was a way to discover new approaches to diplomacy, to influence, and to understanding. These approaches resonated with many because they cut across cultures, eschewed appeals to force, coercion, and power, and harkened to common human needs, which he often termed “interests.” Roger’s revolutionary approach to negotiation, one that typically began by putting the protagonist in the chair of her perceived opponent, giving her a view of the world through her adversary’s eyes, inspired generations of Harvard Law School students to commit themselves to conflict resolution as a career.

Roger’s brilliant, and at times counterintuitive, thinking is embodied in a series of best-selling books, articles, and manuscripts spanning the second half of his long and storied career. The most famous of these works, *Getting to Yes: Negotiating Agreement Without Giving In*<sup>1</sup> (cowritten with William Ury and Bruce Patton), has been translated into thirty-six languages and has sold millions of copies. Though at times dismissed for choosing to write prescriptively and in easily comprehensible terms to a mass audience instead of articulating grand theory for an academic one, Roger nonetheless gave birth to an entirely new field of study within the academy. Though his work rarely appeared in the pages of this and other more scholarly legal journals, it nonetheless changed fundamentally the face of graduate school education, not just in law schools, but also in schools of business, public policy, communications, and diplomacy.

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<sup>1</sup> ROGER FISHER, WILLIAM URY & BRUCE PATTON, *GETTING TO YES* (3d ed. 2011).

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Roger also used his academic vantage point to tackle real-world problems. His direct interventions and advice advanced negotiations that facilitated the signing of the Camp David Accords in 1979, eased the way for a peaceful transition of power in post-apartheid South Africa in the early 1990s, and promoted the resolution of a border dispute and the signing of a permanent peace treaty between Ecuador and Peru in 1998.

But it is a mistake to think that Roger's attempts to make a difference were always, or even mostly, successful; I suspect they were not. In my early days teaching at Harvard Law School, I can recall venturing into his office on occasion for some counsel or to ask a question. After sharing his thoughts with me, he would motion for me to sit down: "Now, can I ask *you* for *your* advice? I am writing a letter to the Secretary of State about X . . ." or "I've been drafting an op-ed to send to the *New York Times* about Y . . ." Time and again I was struck, first, that a professor, senior to me by half a century, valued the input of a twenty-something neophyte, and, second, that Roger seemed completely undeterred by the infinitesimally small chance that the Secretary of State would read his letter or that the *Times* would publish his op-ed. Always, with Roger, there seemed to be an unrelenting urgency to bring theory to practice, to make a difference on the ground. "The problem," Roger would say, "is *not* in finding a solution. Lots of smart people discover good solutions all the time. The problem is finding a way to get there."

Thirty years after Roger first started teaching the Negotiation Workshop at Harvard Law School, the course remains one of the most popular at the Law School, and the pedagogy it deploys — creative and interdisciplinary — remains a model for others at Harvard and around the world. In designing the course, Roger drew from many academic and pedagogical wells. He experimented with new teaching methods, the use of simulations, and the use of video and intensive personalized feedback. He looked outside the confines of the law to integrate the work of thinkers like Professor Chris Argyris in action science and Professor Howard Raiffa, a renowned Bayesian decision theorist, to name just two. In both its content and its form, even with twenty years of innovation since his retirement, the Negotiation Workshop remains one of the enduring gifts that Roger left Harvard Law School.

But as a teacher I carry with me more than just the concepts, the pedagogy, and the form of the Negotiation Workshop, more than just the course content and delivery style.

For example, at the end of class each day during my time as a teaching assistant, I remember Roger throwing away the empty Coke bottles and candy wrappers students had left at their seats. By the midpoint of the semester, students disposed of their own garbage.

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Those of us who had the honor of having Roger as a professor or of working with him in the Negotiation Workshop will surely recall similar subtle teaching moments along with his more blunt exhortation, “Choose to help.” In other words: don’t just do your job well, but be observant; find ways to exert your influence to make a positive difference whenever you can.

As I think about Roger’s career, his many accomplishments, and his long life, it seems to me that his admonishment to us embodied his own calling: “Choose to help.”

In a profession in which sharp-edged critiques can often outnumber new ideas, and in a world where threats, whether of lawsuits or wars, seem to eclipse the voices of engagement and dialogue, Roger’s contributions — his scholarship, his stories, his example, and his never-ceasing “choose to help” attitude — are to me as inspiring, fresh, and urgent as ever. I trust they will remain alive in the heart of this student — and in those of so many others — for years to come.

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*Danny Ertel\**

Roger Fisher was a man intent on changing things for the better, directly, personally, and tangibly. He wrote books that changed how millions around the world think about negotiation and conflict and relationships. But he also picked up the phone and hopped on airplanes to go and speak directly with the protagonists in a conflict about how they could more effectively resolve their differences if they started by listening and understanding, and if they thought creatively about how their counterparts could also meet their legitimate interests in a way that was better for them than prolonging the conflict.

Roger developed models and tools for practitioners. His focus on the prescriptive — what can we do? — rather than descriptive or normative, made him a life-long learner of what works and what doesn’t and why. Roger was also a consummate storyteller, and he used stories to help crystallize key lessons for himself, and to make them memorable for his students. There is one from my time working with Roger that still serves me today in my consulting practice.

I was working with Roger in the late 1980s advising the Government of El Salvador and the high command of the Farabundo Martí

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National Liberation Front<sup>1</sup> (FMLN) on the peace process that eventually ended the decade-long civil war. Through a set of relationships and coincidences too long to recount here, we were working with both sides. They knew this, and when reminded, each often said: “Oh good, they need your help even more than we do!” Over a period of months, we met with rebel and government leadership and their negotiating teams, always unofficially, and always trying to help think through not only what they were trying to accomplish but also what it would take for the other side to be able to say yes.

During this time, Roger was very interested in the importance of process. When pressed by the parties for a substantive proposal, he would say: “Solutions aren’t the answer.” For this small country, with families literally divided by the civil war — one member of the negotiation support team for the FMLN had an uncle on the government negotiation team — to have a chance at reconciliation and stability after the war, the process by which they came up with whatever terms they could both accept was as important as what the terms actually were.

As the parties jockeyed for future political advantage in their negotiations over reforms to the judicial and electoral systems, Roger pushed them to think about processes that would seem fair and appropriate regardless of who commanded more votes or headed which institutions. As they talked about ceasefire timetables and conditions, he pushed them to think about how they could jointly investigate breaches, rather than hand any extremist with a gun a veto over the peace effort. He tried to persuade them that well-crafted processes could be neutral and could facilitate effective problem solving. We were already doing something a bit radical by advising both sides concurrently, and we wanted to emphasize the neutrality of our advice by demonstrating that our advice to each was identical. Following each round of meetings, we would craft a note synthesizing key conclusions from our discussions and offering further analysis and suggestions about how to proceed. Each time, we made a point of sending that same memo to both sides, at the same time.

One particular memo and its impact, however, taught us something about the limits of process neutrality and the importance of recognizing the differential impact even neutral process could have on the decidedly partisan perceptions of different parties. We were at a point at which each side was making demands, in public, and leaving little room for compromise. The government insisted that the rebels put

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<sup>1</sup> The FMLN unified and organized five different insurgent organizations under a single military and political command, first to wage civil war against the government, and eventually to negotiate a peace and become the major opposition party.

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down their arms before any reforms in the judicial, electoral, or land-distribution systems could even be discussed. The rebels, on the other hand, insisted that as a precondition for any negotiation about the cessation of hostilities, there must be reforms to the judicial and electoral processes and a commitment to land redistribution.

We wrote a memo to help each side understand why the other could never agree to their demands and to propose they begin, without preconditions, a series of discussions that would address, in parallel, security, political, and civil society issues. The FMLN received our memo, which started with a chart, written from the perspective of the rebel high command, in which we articulated the consequences to the decisionmaker of accepting or rejecting President Cristiani's demands. These consequences were along the lines of: "If we agree . . . we've put our guns down without accomplishing anything in twelve years of civil war, and our supporters may refuse to go along. If we say 'no' . . . we continue to fight for a righteous cause . . . and the Government may eventually give in." They later told us that as they read it, they said: "Yes, that's why Cristiani's demands are not serious. Anyone really interested in peace wouldn't ask us to do this." They turned the page and read a similar chart, this time written from President Cristiani's perspective, which described how their demands looked and felt to the President. "If I agree . . . we're caving in to illegitimate pressure, accepting reform via bullets rather than ballots, creating a terrible precedent for the future . . . and it may lead to a military coup. If I say 'no,' we may yet inflict sufficient losses militarily that they will come back with a better offer." The rebel leadership chuckled: "Boy, would Cristiani have a problem if he agreed." This realization led them to read with interest a suggested alternative path to peace negotiations.

Unfortunately, in our urge to deliver exactly the same memo to both sides, we presented the Cristiani Government with a memo that started out with a description of why the rebels could not accept his demands. They read no further, and Roger and I suddenly found it harder to gain permission to enter the country.

We eventually were able to get past this misstep and continue to work with both sides, including facilitating lengthy workshops in Cambridge with the rebel negotiation team and in San Salvador with the government team. We continued to play a role in the background as the parties entered into formal talks mediated by Álvaro de Soto, Personal Representative of the U.N. Secretary-General for the Central American Peace Process. But I had learned an important lesson about process neutrality — even if we don't change *what* we say, the *sequence* in which the parties hear it matters. To be persuasive, it is more important to start with where your interlocutor is than to defend the purity of your model or your process.

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In some ways, this “lesson” had always been a part of Roger’s modus operandi. *Getting to Yes*,<sup>2</sup> after all, is built on the premise that the best way to accomplish your objectives is often to help your counterpart accomplish his or hers. His subsequent book, *Getting Together*,<sup>3</sup> focused on building relationships, making the point that we are always more persuasive and effective when we seek to understand our counterparts, whether or not they reciprocate. As an interventionist, he was at his best when he was able to help whomever he was working with both feel heard and begin the effort of understanding his or her counterpart in the conflict at hand.

This emphasis is part of what made Roger such a great teacher and mentor: he always focused our work on trying to understand how others perceived the situation, including our role in it, so we could be more effective. Of course we had views on how the parties might resolve their differences more effectively. But I have never before or since seen an accomplished professional and expert more curious and interested in learning something from every interaction, or more willing to modify his own theories and models based on what he learned. Every stakeholder was different and saw the world through his or her own filters. The processes we followed and recommended might have been “neutral” in that they were constructive regardless of which side initiated or applied them, but they were animated by the perceptions and assumptions of the parties, and in the end, that is what would determine their effectiveness, which mattered far more to Roger than whose process it was.

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*Martha Minow\**

There was no conflict too big or too small for Roger Fisher to tackle. He believed that “yesable propositions” are a good place to start. Devise something concrete and basic, to which both sides in a dispute could agree. Perhaps initially that agreement could only be over something silly or banal. Nonetheless, it would offer a place to begin. Roger brought the teaching, theorizing, and practice of conflict resolution into Harvard Law School, and this work spread across the

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<sup>2</sup> ROGER FISHER, WILLIAM URY & BRUCE PATTON, *GETTING TO YES* (3d ed. 2011).

<sup>3</sup> ROGER FISHER & SCOTT BROWN, *GETTING TOGETHER* (1988).

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world.<sup>1</sup> Roger's pioneering work in teaching and conducting negotiations won him recognition in many communities.<sup>2</sup> Lucky to be his colleague for over thirty years, I learned from many conversations with him and from his example about the power of connecting theory and practice with optimism in tackling big problems. As Dean, it is my privilege to celebrate Roger's accomplishments<sup>3</sup> and forecast his legacy. Expressing myself alone on behalf of the entire institution where Roger spent most of his professional career would not, however, fully honor Roger's own spirit of collaboration. So I have consulted others at Harvard Law School and here draw on reflections by former students, colleagues, and collaborators.

Negotiation was not offered in the teaching program at Harvard Law School before Roger decided to teach it. Roger started with a seminar in 1979, and he worked to understand negotiation as a process that could be analyzed. His first important insight was to teach the same tools to people on both sides of the conflict. He wanted to treat negotiation not as trickery, but instead as a way to deal with differences, to see the other side, and to generate workable solutions. Roger taught that "you want to negotiate like a mediator" who "tries to understand the interests of both sides and figure out how they can dovetail together."<sup>4</sup> His seminar grew into intensive courses that were taught through simulation and that enrolled hundreds of students each year. For him, teaching was not about passing on information but instead about engaging students as choosers and actors through assignments like negotiating hypothetical disputes — or negotiating their own grades for the course.

He cofounded and directed the Harvard Negotiation Project and helped to create the multi-university Program on Negotiation. He stimulated serious training for students at Harvard Law School and

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<sup>1</sup> For a wonderful chance to hear Roger himself discuss his work, see Interview by Robert Benjamin with Roger Fisher, *MEDIATE.COM* (Oct. 2010), <http://www.mediate.com/articles/completefisher.cfm>.

<sup>2</sup> See, e.g., News Release, Nat'l Univ. of Singapore, Roger Fisher Prize in Negotiation for NUS Law School (May 17, 2012), [http://newshub.nus.edu.sg/headlines/0512/prize\\_17May12.php](http://newshub.nus.edu.sg/headlines/0512/prize_17May12.php) (announcing the establishment of the Roger Fisher Prize in Negotiation at the National University of Singapore for the law student excelling in negotiation workshop work); Information Sheet and Application Form, The Roger Fisher Negotiation Training Scholarship (2010), available at [www.lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=10851](http://www.lsuc.on.ca/WorkArea/DownloadAsset.aspx?id=10851) (announcing a scholarship for negotiation training in Ontario, Canada).

<sup>3</sup> In April 2012, we opened the collection of Roger Fisher's papers at the Harvard Law School Library after cataloguing and studying his materials from over 60 years. See *Roger Fisher Papers Open at Harvard Law School Library*, PROGRAM ON NEGOTIATION (Aug. 3, 2012), <http://www.pon.harvard.edu/daily/negotiation-skills-daily/roger-fisher-papers-open-at-harvard-law-school-library/>.

<sup>4</sup> Bert Spector, *An Interview with Roger Fisher and William Ury*, *ACAD. MGMT. EXECUTIVE*, Aug. 2004, at 101, 101, available at <http://www.jstor.org/stable/4166096>.

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for professionals and others from around the world. His scholarship and hands-on projects addressed serious conflicts, including the Iranian hostage crisis and peace negotiations in Central America, South America, and the Middle East. For Roger, working in the field was crucial to advancing his understanding as well as to trying to make the world better. He offered advice even in seemingly hopeless situations. He constantly tested steps that he thought might help. These experiments informed his writing and teaching — and his advice to leaders — like suggesting the use of a single text by a third party to prompt revision by competing sides.

Roger's landmark book, *Getting to Yes: Negotiating Agreement Without Giving In*,<sup>5</sup> has been translated into thirty-six languages, selling some eight million copies. Coauthor Bill Ury explains the writing process: "In effect we were using the single-negotiating-text process with its endless revisions until we were both satisfied with the result."<sup>6</sup> The results are memorable: "Separate the people from the problem," "Focus on interests, not positions," "Invent options for mutual gain," and "Insist on using objective criteria."<sup>7</sup> I am one of so many people adopting these approaches for two simple reasons: they make sense, and they work.

Making sense and making things work were Roger's stock-in-trade. An accomplished lawyer who argued cases before the Supreme Court as Assistant to the Solicitor General, he once pressed his luck before the Court: he did not sit down when the red light at the podium came on. Instead, he said, "I see my time has expired, but I ask for five additional minutes." Justice Burton came to his rescue and asked a question, allowing Assistant Solicitor General Fisher to finish his point. Roger Fisher negotiated his way even with the United States Supreme Court.

Despite his prowess as an appellate lawyer, he searched for and created effective alternatives to adversarial process. He never forgot the devastation of World War II, in which he fought as a volunteer in the Army Air Corps. The war took his college roommate and other friends. Afterward, he pursued foreign affairs; he served on Ambassador Averell Harriman's Marshall Plan staff, and he held a post consulting for John McNaughton, U.S. Assistant Secretary of Defense for International Security Affairs. He constantly asked, how could he personally make the world better?

The optimism and creativity fueling his life also informed his specific intellectual contributions. He identified how, with imagination,

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<sup>5</sup> ROGER FISHER, WILLIAM URY & BRUCE PATTON, *GETTING TO YES* (3d ed. 2011).

<sup>6</sup> See *infra* p. 900.

<sup>7</sup> FISHER, URY & PATTON, *supra* note 5, at 131.

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the interests of competing parties could be advanced by seeking “win-win” solutions, rather than viewing a conflict as a “zero-sum” game. He urged people to focus on what would happen without a negotiated solution — which often helps people realize there could be an option better than leaving matters as they lie.<sup>8</sup>

Even with Roger’s own geniality, he understood human irritations and dislikes — and paid attention to how deep hatreds and personal dislikes could contribute to conflicts and prevent their resolutions. He viewed the separation of such feelings from the conflict as a central step toward resolution. “Whether we like people or dislike them, whether we agree or disagree, our goal should be to establish an array of good working relationships, relationships that include the ability to deal well with whatever differences come along.”<sup>9</sup> He realized that when people have a problem, their own perspectives can seem definitive. He urged problem solvers to work hard to see the perspective of others; he also urged everyone to see the human dimension of a conflict as separable from the substance. He emphasized how important it is to anticipate and attend to feelings of hurt, grievance, anger, neglect, or the shame of being disrespected; he taught public officials, lawyers, and so many others the power of finding ways to connect on a human level before negotiating through a conflict.

Maybe he understood conflicts so well because he was so different. One colleague said to me, “I admired the crazy way he marched to his own drummer.” And he differed from most of his colleagues in his commitment to experiential teaching methods. He exploded the myth that negotiation could not be taught, as well as the myth that it could not be theorized. As Bob Mnookin observes, “For some the workshop was transformative: it literally changed how they approached conflict in their professional and personal lives.”<sup>10</sup> One of Roger’s greatest legacies lives on in his students, many of whom are now distinguished and accomplished negotiators and teachers of negotiation.

His connection with students embodied his openness to ideas and capacity to listen. Students remember how his eyes lit up when he heard a good idea and how he stood out for his willingness to look for good ideas from anyone, including young, inexperienced students. Even as a busy faculty member, he would spend hours with students, absolutely focused on them; he consciously sought to convey to each student the feeling — and the reality — that he or she was, in that moment, absolutely of singular importance. One former student ex-

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<sup>8</sup> See Roger Fisher & William Jackson, *Teaching the Skills of Settlement*, 46 SMU L. REV. 1985, 1990 (1993) (describing the need to identify a best alternative to negotiated agreement (BATNA)).

<sup>9</sup> Roger Fisher, “Quick-Fix” Solutions Are Not the Answer, NEGOT. J., Jan. 1992, at 15, 15.

<sup>10</sup> See *infra* p. 888.

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plains, “Roger taught me — and thousands of others who joined him over the years — how to observe the world closely, listen past posturing to the underlying structure of the conflict, and how to invite people to see possibilities that didn’t require them to give up who they were in order to lay down their arms or their arguments.”<sup>11</sup>

Roger’s commitment to education and to improving the world led him to reach beyond the academy and training program and find a broader audience through television. He developed a program called *The Advocates* in order to stimulate public discussion and understanding about realistic choices about tough problems and to demonstrate how public officials and constituents can engage productively together. Serving as executive producer of the show between 1969 and 1974 and again between 1978 and 1979, Roger had the occasion in 1970 to interview President Nasser of Egypt in a segment for the show. During the interview, Roger drew President Nasser out on what terms he might be willing to accept in resolving the Egyptian conflict with Israel — and the possibility of a ceasefire with Israel emerged precisely at the time when Israel and Egypt were engaged in conflicts along the Suez Canal. Roger contacted Under Secretary of State Elliot Richardson (HLS ’47), who in turn contributed to the plan that ultimately produced a ceasefire.<sup>12</sup>

Roger’s influence will endure through those whom he so powerfully touched, through the ideas that themselves create ripples, through the Program on Negotiation he forged, and through his own writings, his colleagues’ publications,<sup>13</sup> and *Beyond Reason*, his final and coauthored book.<sup>14</sup> He will be remembered as enthusiastic, bold, generous, practical, and idealistic, all at the same time.

There is a story Roger liked to tell about himself. He was not confident about how effectively he was teaching early in his career at Harvard Law School. Nonetheless, on the day the appointments committee came to evaluate him, the students rallied around him and made the Socratic dialogue seem brilliant and the classroom electric. Roger liked this story for many reasons; he liked to comment that it demonstrated to him how the supposedly powerless — an untenured faculty member, the students at risk of being cold-called — could be decisive participants in a decisionmaking process.<sup>15</sup> I think the story

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<sup>11</sup> Email from Sheila Heen to Martha Minow (Oct. 25, 2012).

<sup>12</sup> *HLS Professor Roger Fisher Dies*, HARVARD GAZETTE (Aug. 28, 2012), <http://news.harvard.edu/gazette/story/2012/08/hls-professor-roger-fisher-dies/>.

<sup>13</sup> See, e.g., DOUGLAS STONE, BRUCE PATTON & SHEILA HEEN, *DIFFICULT CONVERSATIONS* (rev. ed. 2010) (Foreword by Roger Fisher).

<sup>14</sup> ROGER FISHER & DANIEL SHAPIRO, *BEYOND REASON* (2005).

<sup>15</sup> I thank Professor Alan Stone for this recollection.

also shows how he ably recruited people and won their confidence and trust, turning what could be adversarial into a “win-win” situation.

Roger Fisher taught people to expand “the pie” and create value as part of resolving their differences. He was a man of values who created value. We will miss him as we search for “yesable propositions” and other ways to make the world better.

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*Robert H. Mnookin\**

Some nineteen years ago, Roger Fisher passed on to me the negotiation torch here at Harvard. Dean Robert Clark had recruited me from Stanford to return to my alma mater and build on the foundation that Roger had created — to become his successor as the head of Harvard’s Program on Negotiation (PON) and to assume his chair as the Samuel Williston Professor of Law. Roger graciously welcomed me, and warmly supported my appointment. As a founder of PON and the professor responsible for the negotiation curriculum here at Harvard Law School, it could not have been entirely easy for him given circumstances not within his control. He had turned seventy, and much to his consternation the law at that time permitted Harvard to impose emeritus status on professors when they reached that age.<sup>1</sup> Roger was full of energy and ideas, and eager to keep spreading the word about problem-solving approaches to conflict resolution. Fortunately for the field, he did anything but retire. He remained passionately engaged at PON for many years through his writing, teaching, and mentoring.

I appreciate this opportunity to salute Roger and acknowledge in print my gratitude for the opportunity to build on the magnificent foundation he provided.<sup>2</sup> Roger was a creative problem solver who was committed to the cause of peace and who relished the opportunity to parachute into (invited or not) real-world conflicts. Others in this volume will salute his remarkable achievements along these dimensions. My focus here will be on his legacy as a professor: his seminal

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<sup>1</sup> In 1994, the law changed; universities can no longer require faculty to retire at any fixed age. I am a beneficiary of this new regime, having just turned seventy myself. I can empathize with Roger’s feeling in 1992, having just missed the cutoff.

<sup>2</sup> Fortunately, I had the opportunity to express my gratitude publicly while Roger was still alive, at an event here at Harvard Law School in April 2012, which his sons attended. This tribute is an expansion of those comments.

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contributions to negotiation *theory*, negotiation *pedagogy*, and *institution-building* within the university.

Some academics — especially social scientists — might be surprised by my claim that Roger made seminal contributions to negotiation *theory*. But they are surprised because they do not understand a critical distinction between three different kinds of theory<sup>3</sup>: (1) *Normative theory*, based on formal models, aims to work out how “rational actors” *ought* to behave, given certain behavioral assumptions. Game theory and axiomatic microeconomic theory are examples. Roger was impatient with this kind of theory. He found the assumptions much too reductionist to capture the full range of human motivations. (2) *Positive theory*, based on systematic empirical research, aims to *predict* more accurately how people *actually* behave. Research and writing in cognitive and social psychology and experimental economics aim to contribute to positive theory through empirical investigations. Roger had little interest in hypothesis testing or systematic empirical research either. (3) *Prescriptive theory* aims at offering generalizations about how a person *should* negotiate given people’s actual behavioral inclinations in the real world. This type of theory was Roger’s passion.

No one has made more seminal contributions to prescriptive negotiation theory than Roger Fisher. All of Roger’s writings during the past thirty years reflect this prescriptive orientation. Indeed, Roger was impatient — at times too impatient, in my view — with social science research conducted to support other kinds of theory. Roger’s goal was to offer prescriptive advice on how parties in conflict might negotiate more effectively.

Roger’s most noted prescriptive contribution is, of course, *Getting to Yes*,<sup>4</sup> written with Bill Ury and Bruce Patton. This classic has sold more than eight million copies. (My hunch is that no other book written by a Harvard Law professor has come close.) To this day it is found in every airport bookstore in the world. This inviting, readable book offers powerful guidelines on how to achieve “win-win” or mutual-gain outcomes: for example, focusing on the parties’ underlying interests, not their positions; harnessing the power of legitimacy by insisting on normative principles and objective criteria; and developing a negotiation process that leaves room for inventing options for mutual gain. *Getting Together: Building Relationships as We Negotiate*,<sup>5</sup> written with Scott Brown, emphasizes reciprocity as a powerful norm that affects behavior, and advises negotiators to be *unconditionally con-*

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<sup>3</sup> See HOWARD RAIFFA ET AL., *NEGOTIATION ANALYSIS* xi (2002).

<sup>4</sup> ROGER FISHER, WILLIAM URY & BRUCE PATTON, *GETTING TO YES* (3d ed. 2011).

<sup>5</sup> ROGER FISHER & SCOTT BROWN, *GETTING TOGETHER* (1989).

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*structive*. Roger's last book, written with Dan Shapiro and published when Roger was eighty-four years old, is entitled *Beyond Reason: Using Emotions as You Negotiate*.<sup>6</sup> This book identifies five core concerns that trigger emotions during a negotiation and offers advice on how to use emotions to facilitate cooperation.

Apart from his writings, Roger Fisher championed negotiation pedagogy. In the twenty years following 1979 — when he first offered a negotiation seminar to some twenty-four students here at Harvard Law School — Roger helped thousands improve their negotiation skills through courses and workshops he taught in conjunction with Harvard colleagues. In doing so he exploded several myths: that negotiation could not be effectively taught; that negotiation was not a proper subject for a university-based offering; and that there was no relevant theory that could help a person become a more effective negotiator.

A creative and innovative teacher, Roger was committed to experiential methods that required students actively to participate in their own learning. In response to ever-increasing student demand at Harvard Law School for negotiation courses, Roger soon moved beyond a seminar format and developed an intensive three-week Winter Term negotiation workshop — offered in collaboration with Professor Frank Sander and Bruce Patton and student teaching assistants — that soon became among the Law School's most sought-after offerings. At Harvard College, Roger developed a popular undergraduate course in International Conflict Resolution. And last but far from least, Roger drew thousands of lawyers and managers to Harvard for three- and five-day workshops that he offered along with colleagues from PON and the Harvard Negotiation Project.

In his teaching, Roger's orientation was prescriptive: his aim was to teach people to be more effective negotiators by employing the principles he had developed in his writing. He always underscored the importance of preparation and of trying to see the problem through the other person's eyes. Students were encouraged to experiment with the ideas that Roger championed in his writings: to probe for the underlying interests of the parties, to be creative, and to marshal the power of legitimacy. But he did far more than preach the gospel of "win-win." Through negotiation exercises students were given the opportunity to try out the prescriptive ideas offered and then to reflect critically on their own experience, on what worked well and what they might do differently next time. Nearly all of Roger's students found the opportunity to improve their negotiation skills valuable. For some

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<sup>6</sup> ROGER FISHER & DANIEL SHAPIRO, *BEYOND REASON* (2005).

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the workshop was transformative: it literally changed how they approached conflict in their professional and personal lives.

The third dimension of Roger's legacy relates to institutions he founded here within Harvard University. Roger was instrumental in the creation of both the Harvard Negotiation Project, which he directed until 2008, and its parent organization, PON. From its creation, PON's mission has been to improve the theory *and* practice of negotiation through interdisciplinary research and teaching. Roger was always interested in "spreading the word" — that is, widely disseminating the best negotiation ideas and practices. Roger understood that an institution based here within the University, with a professional staff, could accomplish this task. Founded in 1983, PON is housed here at Harvard Law School but is an inter-university consortium involving faculty from MIT, the Fletcher School of Diplomacy at Tufts, and various professional schools and departments here at Harvard. Roger's special genius was to foresee that such activities could be made financially self-sustaining through executive education programs that drew lawyers and executives to Harvard for negotiation training.

Along all three dimensions Roger's legacy remains vibrant. PON has expanded in budget, mission, and reach. Today, PON has a budget of over \$3 million a year. It publishes the *Negotiation Journal*, a monthly newsletter, supports doctoral research fellows, and provides seed money for young faculty. Indeed, PON's example has inspired any number of universities throughout the world, which today have university-based research programs concerned with negotiation and dispute resolution.<sup>7</sup>

With respect to teaching, during the last year over 1000 executives attended PON's senior executive program, and hundreds more took week-long courses as part of the Harvard Negotiation Institute. Within Harvard Law School the Negotiation Workshop is today taught to over 250 students each year and yet remains oversubscribed. PON faculty affiliates offer negotiation courses at the Kennedy School of Government, the Harvard Business School, the Fletcher School at Tufts University, and MIT. Hundreds of other negotiation courses and workshops throughout the world rely on simulations and exercises distributed by the Clearinghouse of the Program on Negotiation.

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<sup>7</sup> Examples include: the Gould Negotiation and Mediation Program at Stanford University, the Center on Negotiation and Mediation at Northwestern University, the Peace, Conflict, and Coexistence Studies Program at Brandeis University, the Center for Dispute Resolution at the University of Missouri, the Saltman Center for Conflict Resolution at the University of Nevada at Las Vegas, the Program in Negotiation and Conflict Resolution at Columbia University, the Straus Institute for Dispute Resolution at Pepperdine University, the Institute for Research and Education on Negotiation at ESSEC Business School, and the European Centre for Conflict Management at Vlerick Leuven Gent Management School in Belgium.



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Finally, the orientation of PON's faculty remains primarily, although not exclusively, prescriptive. We are committed to the further development of theory that will facilitate the constructive, fair, and efficient resolution of human conflicts of all sorts. I know it pleased Roger that my PON and Harvard Negotiation Project colleagues and I have written many books aimed at people who want to become more effective negotiators.<sup>8</sup>

In sum, here at Harvard, with respect to Roger Fisher's commitments to our field — exemplified by his writing, his teaching, and his institution-building — “the work goes on, the cause endures, the hope still lives”<sup>9</sup> that we will continue to improve both the theory and practice of negotiation.

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*Bruce Patton\**

Arguing before the U.S. Supreme Court, Roger Fisher won eight straight cases for the government as Assistant Solicitor General. This result occasioned a reminder from his boss that, while the government wanted to win *each* case, it wasn't in the interest of the Republic for the government to win *every* case. Many people may not realize how much the persuasive skills and principles that enabled this extraordinary record of advocacy were at the heart of Roger's thinking about negotiation and conflict management. But Roger was first and foremost a gifted lawyer, and his legacy owes much to the discipline and insight of the legal perspective. I believe there is much for all of us to learn from reviewing a few of the core principles that informed his thinking.

*Simplifying without being simplistic is a discipline.* No advocate would tell the Supreme Court that a case was too complicated and the Court too stupid to allow an effective explanation in the thirty or sixty minutes allotted. Rather they will say something like, “I know this seems complicated, but I will show you that it is really about these three questions. . . .” Advocates are persuasive to the extent they can simplify in a way that overlooks no argument, presents no internal contradictions, and leaves no unanswered questions. Roger firmly be-

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<sup>8</sup> For listings and descriptions of books and other writings published by PON affiliates, see PON's website at <http://www.pon.harvard.edu/>.

<sup>9</sup> Senator Ted Kennedy, 1980 Democratic National Convention Address (Aug. 12, 1980).

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lieved that whether you were preparing a Supreme Court argument, reviewing your notes for a course, or trying to understand a complex terrain like negotiation, rigorously boiling down complexity to a manageable set of core concepts without losing nuance or oversimplifying was not a matter of luck or happenstance, but rather a challenging intellectual discipline — one he enjoyed immensely.

*Definitions should change with your purpose.* If you ask a lawyer to define, say, an “adult,” they are likely to respond by asking why you want to know. But this notion of changeable definitions makes many people uneasy and prone to seeing lawyers as distastefully “slippery.” Perhaps it goes against some primitive superstitious instinct that the world is less scary and more in our control if we can name things and nail them down with rules. But Roger would point out that lawyers are right. The age at which human beings can procreate is an entirely different matter from when they are strong enough to send to war, responsible and self-controlled enough to hold accountable for crimes, wise enough to vote, and so on. The best concepts for organizing ideas — and the definitions of those concepts — should depend on your purposes, what you are trying to accomplish.

*Seeking understanding makes more sense than seeking “the” truth.* Roger thought Harvard should change its motto from “Veritas,” the singular “truth,” to “Partial Truths and Illuminating Distortions.” The subway map, he would point out, is inaccurate and “untrue” in almost every particular, yet it is extremely useful precisely because of those simplifications and distortions. Various disciplinary perspectives are each valid and extremely illuminating of important questions, yet each is also woefully inadequate to explain the fullness of human experience and events. Roger advocated seeking a deeper understanding of the complexity of human affairs (and brainstorming ways to change the course of those affairs) by trying on as many different perspectives as possible from an “atlas of approaches.” What would an economist see here? A lawyer? An anthropologist? A shaman? A gardener? Why would it make *sense* for the other side to do what they are doing (rather than what we want)? How might we be encouraging each other’s behavior and creating a self-fulfilling prophecy? The more comprehensive your survey, the more complete an argument or proposal you can craft.

*All perceptions are partisan.* With a hefty degree of self-awareness, Roger would often point out that as an advocate he had sometimes failed to persuade the Court of the validity of his arguments, but “I never failed to persuade myself!” Roger relished the story of being one of a group of young associates at Covington & Burling who was asked by a partner, John Leyland, to figure out how to argue as plaintiff for a valued client who wanted to pursue an odd case that seemed to lack any helpful precedents at all. After a long weekend, they gleefully reported that while the case had at first seemed hopeless, after further

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work they thought there was a very strong case to be made that changes in the market should lead to a change in the legal standard similar to what was occurring in several arguably analogous legal realms. Leyland praised the associates' efforts profusely and then revealed that, as usual, Covington was really representing the defendant; he had wanted to make sure they didn't underestimate the plaintiff's case. At the end of the day, negotiators may never agree on the "fairest" solution to their differences, but it behooves a wise negotiator to recognize that their sense of what is most fair might well be different if they had set out representing the other side.

*Don't reject their case; build yours on top of it.* Telling a court to ignore the other side's case because it's all wrong is seldom effective, because something they said is likely to have had a persuasive impact. Good advocates are prepared to acknowledge that the other side has a strong case, but then show "that it's not quite *this* case." They add new facts and/or competing legal principles that change the question, and consequently the result. Good negotiators should come prepared to do the same thing. When the other side makes their best argument, you want to be able to say, "You're absolutely right. *And*, for these reasons, I may still need to do something else." To do this well, of course, you have to be able to put yourself empathetically into the other side's shoes, and be able to move fluently among your perspective, your counterpart's, and that of a "fly-on-the-wall" observer. You won't be able to do this if you think the world is about which *one* of us owns the "truth" or the "right," rather than seeing it as full of multiple sensible (if partisan) perceptions and competing rights that can't be fully reconciled.

*It's always the right time to do something.* Roger was exasperated with people who would argue that a conflict was not "ripe" for intervention. "It's always the right time to do something," he would retort with the perspective of a lawyer representing a client in trouble. Sometimes the focus should be on disputing guilt, other times on negotiating consequences, and occasionally just on lending a sympathetic ear, but there's always something useful to do.

Roger Fisher lived these principles in everything he did. We would do well to keep learning from his example.

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*James K. Sebenius\**

For some months in 1978, my dissertation advisor, Howard Raiffa, had urged me to meet Bill Ury, an anthropology graduate student working closely with Roger Fisher. When Bill and I finally connected, our sunny afternoon conversation in my shabby Putnam Avenue apartment continued long after dusk had darkened the room. Each of us mirrored aspects of our respective intellectual mentors: mathematically inclined, I was taken with decision analysis and game theory while Bill twigged to the relational and cultural.

Yet while our lenses differed, each of us had somehow developed a fascination with negotiation, not only as an intrinsically intriguing academic subject but also as a field in which theory might truly serve practice. Each of us had tasted practice: in my case, serving on the U.S. delegation to the Law of the Sea negotiations, and in Bill's, working on conflict resolution projects in the Middle East and a Kentucky coal mine. As Ph.D. students, we now sought to learn and develop prescriptive theory that would genuinely help negotiators with their toughest challenges.

Through Bill and Howard, I met and began to interact regularly with Roger Fisher, who directed the Harvard Negotiation Project (HNP). Soon, guided by our mentors and a wider group of remarkable senior faculty,<sup>1</sup> Bill and I were among the eager graduate student gofers who helped build on HNP's foundation to launch the broader Program on Negotiation (PON).<sup>2</sup> PON continues to thrive as an inter-university consortium based at Harvard Law School, with widespread, active faculty and student participation from various Harvard professional schools (especially the Business and Kennedy Schools), MIT, the Fletcher School of Law and Diplomacy at Tufts, Brandeis, Simmons College, and others.

When I succeeded Roger as Director of HNP a few years ago, I began to reflect on what I'd learned over the years from this intense, opinionated, confident, and optimistic law professor, whose tall, slen-

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\* Gordon Donaldson Professor of Business Administration, Harvard Business School; Director, Harvard Negotiation Project; Vice-Chair, Program on Negotiation; and prior board member of the (former) Conflict Management Group, which was founded and chaired by Roger Fisher. Contact the author at [jsebenius@hbs.edu](mailto:jsebenius@hbs.edu).

<sup>1</sup> Though the roster of actively involved senior faculty rapidly expanded over time, beyond Roger and Howard, initial and early members included Frank Sander from Harvard Law School, Larry Susskind from MIT's Department of Urban Studies and Planning, Robert McKersie from MIT's Sloan School of Management, David Kuechle from Harvard's Graduate School of Education, and Jeff Rubin from Tufts University's Psychology Department and Fletcher School.

<sup>2</sup> Bill Ury's and my close counterparts at the time included Bruce Patton, a longtime protégé of Roger's at HNP, and David Lax, a post-doctoral fellow under Howard.

der frame and ageless features personified *Getting to Yes*.<sup>3</sup> With his passing in 2012, the many valuable lessons Roger taught, directly and by example, have sharpened. From Roger, I learned not only about negotiation but also about how an academic career, especially in a professional school such as law or business, could make an important, positive difference in the world. Of course, Roger's way is but one of many, but what I, at least, take as some of its key precepts bear serious consideration by those individuals developing their careers. Some examples:

*Get your hands dirty.* It takes courage and chutzpah for an academic to wade into real-world challenges throughout his or her career. Always exhibiting these qualities, Roger's relentless engagement — whether in South Africa, at Camp David, on the Peruvian-Ecuadorian border, or elsewhere — gave him a first-hand sense of the issues as negotiators actually experienced them, not as they might be portrayed in the literature. By staying close to the phenomenon itself, he was able to ask better questions and to formulate more valuable answers. And of course, Roger's notable success in high-profile situations greatly enhanced his credibility and that of his work. Moreover, by involving students and junior colleagues in some of these engagements, Roger saw himself as creating the law school equivalent of a teaching hospital specializing in resolving disputes constructively. The real trick, however, is to combine real experiences with theory to generate new and useful intellectual capital, which I see Roger as having undertaken in at least three ways, encapsulated below as further precepts.

*Collaborate across disciplines.* Roger's books often drew on insights from other disciplines, especially the behavioral; from the beginning, his work made heavy use of concepts such as partisan perceptions, basic human needs, active listening, and effective brainstorming. Yet when Roger's HNP joined forces with several other faculty efforts — on public disputes, labor relations, business and organizational negotiations, mediation, and so on — to create the larger “umbrella” PON in 1983, the sustained mutual engagement and cross-pollination of lawyers, psychologists, economists, game theorists, urban planners, statisticians, anthropologists, and others greatly enriched each person's understanding and insights — albeit with occasional frictions and frustrations. With the phenomenon of negotiation as a common point of reference, respectfully confronting sharp differences in perspective and approach — exemplified by the mathematically oriented Raiffa and the informal Fisher — proved quite valuable to all involved.

*Envision your work as an evolving project, with others.* Looking over a sampling — hardly all! — of Roger's work, two salient charac-

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<sup>3</sup> ROGER FISHER, WILLIAM URY & BRUCE PATTON, *GETTING TO YES* (3d ed. 2011).

teristics jump out. First, the corpus is much better understood as a long-term evolving *project* around a unifying theme rather than as a series of one-off products. Second, *coauthorship with a remarkable series of mostly younger colleagues* served a powerful mentoring role and further developed the core project, both directly and through independent works by Roger's collaborators.

After Roger alone wrote *International Conflict for Beginners* in 1969, a slim volume illustrated with informative cartoons by Robert Osborne, he joined forces with William Ury to coauthor the blockbuster *Getting to Yes (GTY)*, which appeared in 1981; Bruce Patton joined Roger and Bill as a third coauthor in later editions. *GTY* can be understood as a win-win, problem-solving antidote to traditional win-lose, positional bargaining. While *GTY* stressed the importance of relationships, this element of negotiating longer-term deals became the subject in 1988 of *Getting Together: Building Relationships as We Negotiate*, coauthored with Scott Brown. Refocusing on international conflict with a refined *GTY* methodology, a 1994 collaboration among Roger, Elizabeth Kopelman (Borgwardt), and Andrea Kupfer Schneider produced *Beyond Machiavelli*. Actually putting *GTY* principles into practice was the subject of *Getting Ready to Negotiate* in 1995, a preparation workbook written with Danny Ertel. A scant few years later, in 1998, Roger worked with Alan Sharp and John Richardson to write *Getting It Done: How to Lead When You're Not in Charge*, which addressed the challenge of lateral leadership inside organizations, generally via negotiation. Over the years, various users and critics of *GTY* had charged that its methodology was too cool, "rational," and didn't take account of emotions. It should hardly be surprising that a collaboration with young psychologist Daniel Shapiro in 2005 generated *Beyond Reason: Using Emotions as You Negotiate*.

This rushed tour through some of Roger's books should highlight their organic evolution as a *project* on the theme of problem-solving, *GTY*-style negotiation, successively refining and expanding the core conception. It also suggests the wide range of Roger's junior coauthors, most of whom have continued on with impressive careers that frequently entail a strong element of negotiation. And Roger's mentees themselves have independently furthered his core project in singular and important ways, notably against the challenges of dealing with hard bargainers (Ury's 1991 *Getting Past No*), saying "no" while enhancing relationships (Ury's 2007 *The Power of a Positive No*), and communicating constructively on tough issues (Douglas Stone, Bruce Patton, and Sheila Heen's 1999 *Difficult Conversations*).

*Express powerful truths simply, concisely, and memorably.* As with the books of his mentees, Roger's works are blessedly brief, plainspoken, and example filled. They derive much power from their tight organization, ruthlessly edited around a few, carefully crafted, pithy pieces of advice. As a canonical example, take the core prescriptions

that structure *GTY*: “Separate the people from the problem.” “Focus on interests, not positions.” “Invent options for mutual gain.” “Insist on using objective criteria.” “What if they are more powerful? (Develop your BATNA — Best Alternative to Negotiated Agreement.)”

With my intellectual background that valued nuance, logical consistency, and precision, *GTY*'s general, aphorism-laden approach initially drove me crazy — even though I had given positive feedback to Bill and Roger on countless drafts. As a young professor, I sometimes gave exam questions in negotiation classes asking students to ponder *GTY* and critically evaluate its advice: “*Under what conditions* should you (*and should you not*) separate the people from the problem, focus on interests, not positions, or develop your BATNA even when they are *not* more powerful, etc.? Suggest counterexamples.” (It is easy to find negotiations in which the problem *is* the person, where positional bargaining may trump an interest-based approach, or when both sides have equal power but improving your BATNA will beat any feasible deal.<sup>4</sup>)

Yet a few realizations came to temper my early intellectual indignation. First, I had had my students read *GTY* very carefully and critically engage with its approach. Even if flawed in some respects, its main message was compelling to many and could not be easily ignored in the world of negotiation, as is the great bulk of academic work, including much of my own. And much as Roger's friend, John Kenneth Galbraith, had provocatively served up a creative new agenda about the real structure of the industrial economy to his economist colleagues, Roger's work stimulated many a further scholarly investigation.

Second, not only did people actually *read* the books of the *GTY* project, but they also *remembered* the essence of the advice. After all, most of us can recall only a few key elements of any book; elaborate argumentative and evidentiary structures tend to quickly blur and fade.

Third, and perhaps most important, I came to appreciate that various forms of intellectual capital can be valuable depending on one's purpose. By far, the most familiar to social science are deductive propositions supported by experimental and observational evidence,

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<sup>4</sup> Indeed, two of my books, coauthored with David Lax — *The Manager as Negotiator* (1986) and *3D Negotiation* (2006) — conditionally embrace but sharply critique the approach of *GTY* and its progeny while systematically extending analysis and advice to vital aspects of negotiation downplayed in Roger's work (for example, the tight links between competitive moves to “claim value” individually and cooperative moves to “create value” jointly, wide classes of moves “away from the table” to set up the negotiation in the most promising fashion, etc.).

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but many other forms of knowledge can also be valid and useful.<sup>5</sup> For example, Roger and his colleagues constructed frameworks of aphorisms that, on average, (1) respond to widely felt practitioner needs and (2) systematically direct negotiators' focus to aspects of the situation that will generate helpful prescriptions. Midlevel frameworks and generalizations that reliably meet these two criteria while genuinely respecting the intended audience are valuable indeed and really hard to construct. (Compare *GTY* with the deservedly obscure fate of much dumbed-down scholarship intended to be "popular" to an audience the authors may paternalistically regard as none-too-bright.)

To offer but one example from *GTY*'s maxims: even if, strictly speaking, one should not always focus on interests rather than positions, it is hard to think of a negotiation in which one would not want to make this distinction; deeply understanding the full set of perceived interests of all parties — as distinct from their stated positions — is essential to virtually all negotiation analysis. Though Roger and his colleagues were hardly the first to notice the importance of underlying interests versus bargaining positions, *GTY* and its progeny made interests the centerpiece of their project — and of many people's subsequent approach to negotiation. To this day, the disparate faculty from different intellectual traditions associated with PON largely characterize their approach as "interest-based" — thanks, largely, to Roger.

It sobered me to realize that, as Bill Ury recently reminded me, when the two of us had our initial conversation in the late 1970s, Roger Fisher and Howard Raiffa were a few years younger than we are at this writing. Yet Bill, I, and our many colleagues inhabit a much richer world of negotiation than when we launched our careers. The eight million copies of *GTY* sold in more than 30 languages have helped to put PON on the map and to raise the salience of negotiation as a field of scholarship and teaching. From being a relative rarity in 1980, negotiation is now consistently one of the most popular courses in professional schools.

And whenever I undertake an intellectual initiative, especially with my long-time coauthor, David Lax, we quietly ask ourselves questions drawn from long exposure to Roger Fisher and his work: Is this initiative driven by the real phenomenon that we have seen up close or of which we have had direct experience? Does it appropriately draw on the benefits of collaboration? Does it contribute to a larger, coherent project? Do we foresee ourselves as ultimately being able to express

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<sup>5</sup> This argument is developed at length in my 2006 memorandum "Professional Schools and Academic Departments," which can be downloaded at <https://www.dropbox.com/s/ixebp76kxeg249j/Profv.Acadv1.8.doc>.



the truths we seek in simple, concise, and memorable form? If our answers are mostly “yes,” I’m deeply reassured.

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*William Ury\**

One evening in January 1977, as I was studying for my graduate student exams in social anthropology, I received a call in my rented attic room that served as bedroom and office. “This is Roger Fisher,” a resonant voice on the other side of the line said. “I have just read your research paper proposing an anthropological study of the Middle East peace negotiations. I liked it so much that I sent the main table in the paper to the Assistant Secretary of State for him to have a look at. And I’d like you to come work with me.”

I was stunned. Never had I expected a professor to call me up, let alone invite me to collaborate, or to see one of my ideas offered up for practical application.

As I later came to learn, it was vintage Roger — enthusiastic, generous, bold, practical, and idealistic all at once. My life has never been the same since. That one seminal phone call, I can honestly say, shaped my future.

I accepted the generous offer, of course, and plunged into work with Roger, broadening my horizons week by week. For two years, I coordinated the Devising Seminar, a bimonthly dinner meeting at the Harvard Faculty Club hosted by Roger. The seminar would convene professors like Louis Sohn from Harvard Law School and visiting diplomats to devise creative initiatives for what Roger called “coping with international conflicts.” Inspired by Niccolò Machiavelli’s example of offering advice to the prince, Roger would pose the question: “What could Leader X do tomorrow morning to advance the resolution of the conflict?”

We followed the classic rule of brainstorming: invent first, evaluate later. It was challenging for professors to postpone criticism and then to make the criticism constructive, but it was highly effective in generating creative, out-of-the-box proposals.

I would write up the results and, under Roger’s expert tutelage, would turn them into a memo to an American or foreign official with operational advice. Roger wanted to offer the “client” what he called a “yesable proposition,” a concrete and actionable proposal such as a

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\* Cofounder of the Program on Negotiation at Harvard Law School.

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speech, terms of agreement, or a draft UN Resolution that, if he or she said yes to it, would yield a tangible result.

For Roger, no problem was too difficult, from the U.S.-Soviet rivalry to the Middle East imbroglio. He would read the *New York Times* first thing in the morning and come into the office and say to me, "Bill, we've got a new problem to address." He was, in effect, a one-man State Department.

One day in early September 1978, Roger came back from a neighborly tennis match in Martha's Vineyard with Cy Vance, then Secretary of State, who was working on an upcoming summit at Camp David with Egypt's President Anwar Sadat and Israel's Prime Minister Menachem Begin, to be hosted by President Jimmy Carter. Roger challenged us to come up with ideas for an effective negotiating process. Sohn, who had been involved for years in negotiating the Law of the Sea, described the single-negotiating-text approach that had been used to reach that agreement. Instead of beginning from each side's obdurate positions, the process would begin from an informal third-party draft open to continuous criticism and revision until it satisfied the essential interests of each party. At a Devising Seminar dinner, a group of us discussed how this single-text approach could apply, and Roger and I wrote up the idea for Secretary of State Vance. Vance then made good use of this method to help President Carter secure the historic Camp David Accords between Israel and Egypt.

Pretty soon, as one can imagine, the list of conflicts and initiatives grew and grew. Roger was like the proverbial kid in a candy shop. If there was a conflict that needed help, he could not say no. Feeling the pressure, Bruce Patton and I called a meeting with Roger and said, "There's too much here for you — and us — to do. We have to build more capacity." That conversation was the genesis of the Harvard Negotiation Project. As we reached out for collaborators in the nascent field of negotiation across the university and beyond, the Harvard Negotiation Project was joined by other professors. With them, we founded the Program on Negotiation at Harvard Law School, an inter-university research and teaching consortium.

Our work in the political world was accompanied by writing books and articles to capture the emerging insights. From 1977 to 1978, I worked with Roger to interview diplomats from around the world and write a handbook entitled *International Mediation: A Working Guide*.<sup>1</sup> It was appreciated but, as Roger joked, the number of international mediators in the world at the time could be counted on both hands. So, early in 1979, I invited Roger out to lunch to propose that we turn the handbook into a general book on negotiation for lawyers, manag-

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<sup>1</sup> ROGER FISHER & WILLIAM URY, *INTERNATIONAL MEDIATION* (1978).

ers, and indeed anyone who has to negotiate. After another two years of hard writing, with a great deal of constructive feedback from our colleagues and invaluable editorial assistance from our friend and collaborator Bruce Patton, the result was *Getting to Yes: Negotiating Agreement Without Giving In*.<sup>2</sup>

In the writing process, Roger and I would have long talks, one idea spurring another, until together we had understood the essential simplicity of a problem, often capturing it in some distinction or diagram. Interests versus positions, best alternative to negotiated agreement (BATNA) versus agreement, inventing versus deciding: one of the many things I learned from Roger was the practical power of distinctions.

I prepared a first draft of the book, then Roger went over it, editing and rewriting with his elegant wordsmithing. Then I would have another go, then it would go back to Roger, and so on. In the process, I learned a lot about pithy, punchy writing. In effect, we were using the single-negotiating-text process with its endless revisions until we were both satisfied with the result.

*Getting to Yes* took well over a dozen discrete drafts to make it read easily, as if it were a first draft. Close to the deadline, we ended up, with the invaluable assistance of Marty Linsky, cutting a third of the text to make it short and accessible. Roger's neighbor, our editor Dick McAdoo, coined the title "Getting to Yes" while shaving. All the work was well worth it, for the book turned out to have a wider reach and bigger impact than I think any of us could have imagined.

Thirty-five years after meeting Roger Fisher for the first time, I am as involved as ever in the field of negotiation and conflict resolution, thanks to Roger's original inspiration and influence. I can only register here my deep gratitude for the privilege of knowing and learning from this remarkable man. I loved Roger's quick and fertile mind, his infectious smile, his openness to new ideas, his enthusiasm for solving the world's problems, and his essential kindness as a human being.

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<sup>2</sup> ROGER FISHER, WILLIAM URY & BRUCE PATTON, *GETTING TO YES* (3d ed., 2011).