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A New Playbook to Win Without Compromise: Executive Strategies to Leverage Culture and Conflict, Unlock the Power of Unity, and Satisfy All

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ARTICLE

**A NEW PLAYBOOK TO WIN WITHOUT
COMPROMISE: EXECUTIVE STRATEGIES TO
LEVERAGE CULTURE AND CONFLICT,
UNLOCK THE POWER OF UNITY,
AND SATISFY ALL**

MARIANA HERNANDEZ-CRESPO GONSTEAD*

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* Professor of Law, Deputy to the Dean for International Legal Studies, and Executive Director of the University of St. Thomas International Dispute Resolution Research Network, University of St. Thomas School of Law. J.D. and LL.M., Harvard Law School; Law Degree, Universidad Católica Andrés Bello, Venezuela. The author has been a consultant at the World Bank Group, and she is an appointed conciliator at the International Center for Settlement of Investment Disputes. This article is a paper of papers, which simplifies and integrates the author's two decades of work in the Dispute Resolution field. During this time, the author has written primarily for experts in this field. The tools, systems, and frameworks introduced in this article have been conceptualized in the author's previous works. It is the author's hope that the reader finds this high-level overview useful, and that the footnotes provide guidance for deeper exploration of the work presented. The footnotes in this article are meant to be accessible for the general public (in terms of the level of knowledge presented and cost of the sources). For sources that are more technical, refer to the author's previous works and the footnotes cited therein. The author's work referenced in this article is not all-encompassing. Additional work that is not included provides details, applications, and further context that the author encourages readers to consult as supplements to the concepts discussed. This Article is dedicated to the author's father, Rolando Hernandez Milanes, as well as Frank Sander and Wallace Warfield. The author's father believed that Latin America had a bright future, but it had to build it. Frank Sander opened her eyes to new possibilities in terms of procedures and systems, and Wallace Warfield expanded them beyond conflict resolution to decision-making, relationships, and culture. The author thanks Lisa Blomgren Amsler, Janet Martinez, Jacqueline N. Font-Guzmán, Rafael Gely, Susan D. Franck, Anna Joubin-Bret, Roberto Echandi, Ellen E. Deason, Jacqueline Nolan-Haley, and James J. Alfini for their insightful comments throughout the years. The author also thanks Tara Ney, Michelle LeBaron, Emmanuel Brunet-Jailly, Aaron Leakey, Alyson Miller, Carol Brennan, Jane Williams, Richard Simmons, Jesper Christiansen, Jennifer Llewellyn, Norman Dolan, and Christian Gill for their feedback on the application of these tools for system design. The author is also grateful for her former colleagues at the World Trade Institute, the members of the International Dispute Resolution Research Network, research librarians, and her research assistants.

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I. INTRODUCTION

How do we satisfy all parties involved in a conflict? I know you might be thinking that it is nearly impossible without compromising, but please keep reading. More often than not, it is not only possible, but easy, relatively simple, and fast. You just need to expand the current playbook that focuses on sameness through persuasion. Then, you can experience the benefits of the new playbook that *integrates our unique differences through participation*. In this way, we *unlock the power of unity* and satisfy all. Winning without compromising through participation can lead to higher levels of innovation and growth.

Imagine you are trying to assemble a puzzle. However, all of the pieces are flipped upside down. You are unable to see any of the pieces’ colors or patterns. All you can see is the shape of each piece. Would you be able to assemble the whole puzzle? Possibly. However, it would take so much time and effort that most would give up—thinking that it is either not worth the time or impossible.

Those who are more determined might start working on the edges of the puzzle, where the shape provides some guidance. After completing the

frame, the rest of the pieces would remain disconnected, resulting in an unfinished puzzle. Why? Completing the puzzle might simply be too hard.

This image of upside-down puzzle pieces reflects, generally, how the world looks right now. Even though we have reached unprecedented levels of global interconnectivity, we do not always know how to put the global puzzle together. It could be argued that we have barely assembled the edges. It is as if we have produced different parts of a car (steering wheel, tires, doors, etc.), and we believe that our work is complete. However, we have just begun. To reach our full potential and *unlock the power of unity*, we cannot stop at producing the different parts, but instead we need to embrace the next challenge—assembling the entire car.

The question before us is: what would it take to turn the puzzle pieces over, so that we can connect the rest of the puzzle—unlocking our collective potential?

I suggest we start by leveraging culture and conflict. To do this, we need to overcome two critical issues: (1) cultural illiteracy and (2) conflict illiteracy. Overcoming cultural illiteracy is the first step, where we turn the pieces over and organize them by similarities. Overcoming conflict illiteracy is the second step, where we connect the pieces that at first appear to clash and determine if they can fit together to complement each other or if they cannot.¹

This article is a “paper of papers,” an accessible integration of all my scholarship. I have been writing for experts in the field for the past twenty years; I have conceptualized, tested, tweaked, and perfected frameworks and tools to leverage culture and conflict. I have trained and advised leaders globally on these tools, frameworks, and systems. Both culture and conflict are rapidly evolving areas of knowledge. They are highly technical fields that executives need to master to unlock the potential of their organizations. If we are not aware of how culture and conflict operate, we are less likely to *reach the higher levels of innovation and growth the world yearns for*.

A. *Leveraging Culture: Overcoming Cultural Illiteracy to Optimize Collective Value Creation*

The first step in putting together the puzzle is to overcome cultural illiteracy. Becoming culturally literate allows us to flip the puzzle pieces over and group them by similarities, which helps recognize affinity with

1. See MARK GERZON, *LEADING THROUGH CONFLICT: HOW SUCCESSFUL LEADERS TRANSFORM DIFFERENCES INTO OPPORTUNITIES* (2006) (describing the need for “raising a conflict-literate generation.”). This paper is intended for those that are bound by transactions or relationships. However, behavior that causes civil personal injury or can be considered criminal is outside the scope of this paper. See generally ROBERT MNOOKIN, *BARGAINING WITH THE DEVIL: WHEN TO NEGOTIATE, WHEN TO FIGHT* (2010); CHRIS VOSS, *NEVER SPLIT THE DIFFERENCE: NEGOTIATING AS IF YOUR LIFE DEPENDED ON IT* (2016) (discussing techniques used for high-stakes negotiations from a former FBI hostage negotiator).

one another. Recognizing these affinities may enhance relationships and result in higher levels of collective value creation.

i. Increasing Value and Decreasing Risk: The Critical Role of Culture

To become culturally literate, we need to understand what culture is and its impact. Culture can be defined as “the tacit social order of an organization: it shapes attitudes and behaviors in wide-ranging and durable ways. Cultural norms define what is encouraged, discouraged, accepted, or rejected within a group.”²

The importance of culture within an organization cannot be underestimated. An article in the Harvard Business Review emphasizes its impact: “The first and most important step leaders can take to maximize [culture’s] value and minimize its risks is to become fully aware of how it works.”³ In fact, “[i]f [we] don’t understand culture’s power and dynamics, [our] plans go off the rails. As someone once said, culture eats strategy for breakfast.”⁴

We are both cultural consumers and contributors.⁵ Culture shapes who we are individually and collectively.⁶ At the center of our individual identity, we find our core values.⁷ Similarly, at the center of culture are the values of the collective “we.”⁸ Clarity of identity allows us to see the uniqueness of each of the puzzle pieces and how they connect to others’. To

2. Boris Groysberg et al., *The Leader’s Guide to Corporate Culture*, HARV. BUS. REV., Jan.–Feb. 2018, at 44, 46.

3. *Id.*

4. *Id.*

5. Mariana Hernandez-Crespo Gonstead, *A New Dance on the Global Stage: Introducing a Cultural Value-Based Toolbox to Optimize Problem-Solving, Innovation, and Growth*, 34 OHIO ST. J. ON DISP. RESOL. 675, 685 (2020). See Carrie Menkel-Meadow, *Exporting and Importing ADR “I’ve Looked at Life from Both Sides Now,”* 12 DISP. RESOL. MAG. 5, 6 (Spring 2006) (“Rather, people make cultures, and people form institutions, and there may be as much variability within ‘national’ or ‘group’ cultures as between them.”); MICHELLE LeBARON & VENASHRI PILLAY, *CONFLICT ACROSS CULTURES: A UNIQUE EXPERIENCE OF BRIDGING DIFFERENCES* 58–82, 58 (2006) (To be culture-contributors it is necessary to develop “cultural fluency,” which Michelle LeBaron defines as “[o]ur readiness to anticipate, internalize, express, and help shape the process of meaning-making. This process dynamically grows in a social context of interdependence between self and others. . .”).

6. Michelle LeBaron, *Transforming Cultural Conflict in an Age of Complexity*, in BERGHOF HANDBOOK FOR CONFLICT TRANSFORMATION 1, 3 (2000) (“ . . . [C]ulture shapes and reflects identity formation and the way we make and assign meaning. Humans are essentially creatures who assign meaning, or ‘meaning-making’, we seek to explain, to understand, to make sense of our worlds and ourselves in our worlds.”).

7. See JESWALD SALACUSE, *THE GLOBAL NEGOTIATOR* 91–94 (2003) (using the metaphor of an onion to describe culture with values at the core). See also Hernandez-Crespo Gonstead, *supra* note 5.

8. Groysberg et al., *supra* note 2, at 52 (discussing that corporate culture requires alignment of values within an organization: “When a company’s structures, systems, and processes are aligned and support the aspirational culture and strategy, instigating new culture styles and behaviors will become far easier.”).

overcome cultural illiteracy and maximize potential, we need to gain awareness of our individual and collective identity.

ii. Assessing and Maximizing Engagement: Cultural Convergence in Organizations to Enhance Productivity

In our current global economy, most organizations realize the impact of culture and are moving toward cultural literacy. In some cases, they are assessing their cultures and taking the necessary steps to shape them to meet new demands.⁹ They are also trying to increase the cultural convergence between their organizational values and their members' values to maximize the level of engagement.¹⁰ Ultimately, by ensuring value alignment, they aim to increase cohesion, which can translate into higher productivity.

In addition, organizations are more aware of the impact of external cultures and contexts. In particular, when managing growth, an organization understands the challenges that the culture of a new location can pose for their norms and expectations. If managed well, internal and external cultures can provide significant leverage, but if ignored, they can become a costly obstacle.¹¹

iii. Integrating Differences for Value Creation: Cultural Strategies to Thrive in Negotiation and Conflict Resolution

The alignment of culture with strategy and leadership within the organization is essential to maximize the potential of cultural literacy. However, more is needed to operationalize this alignment and promote effective interaction on a daily basis. This includes making decisions together and effectively dealing with conflict.

As companies grow, the role of culture has become more evident in negotiation and conflict resolution strategies. When companies reach out to new talent pools or new markets, knowing how to engage cultural differences can be an even more significant competitive advantage. No matter the level of success in negotiation or conflict resolution in our own culture, without cultural strategies, we will be disadvantaged when we encounter

9. Groysberg et al., *supra* note 2, at 46 (“By integrating findings from more than 100 of the most commonly used social and behavioral models, we have identified eight styles that distinguish a culture and can be measured. . . . Using this framework, leaders can model the impact of culture on their business and assess its alignment with strategy.”).

10. Groysberg et al., *supra* note 2, at 55 (“When we compared employees’ views on their organization’s most salient cultural attributes, two types of organizations emerged: low convergence (employees rarely agreed on the most important cultural attributes) and high convergence (views were more closely aligned).”).

11. Groysberg et al., *supra* note 2, at 56–57 (“Region and industry are among the most germane external factors to keep in mind; critical internal considerations include alignment with strategy, leadership, and organizational design.”); Hernandez-Crespo Gonstead, *supra* note 5, at 678–87.

someone that does not share our cultural norms because those norms influence our assumptions, expectations, and interpretations. Not only could we miss opportunities, but we could escalate the issue or even blow the deal.¹²

In negotiation and conflict resolution, cultural tools allow us to discover who we are both individually and collectively by identifying our values. Value discernment is vital in negotiation because it contributes to maximizing the value creation process.¹³ Engaging at the value level provides the driving force necessary to propel creative thinking and peak performance. Cultural tools also allow us to discover key personal values that can be essential for decision-making and for predicting behavior. It has been emphasized that, “[w]hen properly aligned with personal values, drives, and needs, culture can unleash tremendous amounts of energy towards a shared purpose and foster [the] capacity to thrive.”¹⁴

In sum, overcoming cultural illiteracy requires an examination of our individual and collective values. Organizations can learn to leverage this knowledge to better engage their internal and external stakeholders. Once we have a deep understanding of cultural tools in negotiation and conflict resolution, we can move to the next step by connecting differences to assemble the puzzle.

B. Leveraging Conflict: Overcoming Conflict Illiteracy to Minimize Loss and Maximize Gains

To overcome conflict illiteracy, we need to learn how to accurately assess conflict and then select the appropriate process and experts for resolution. Understanding conflict allows us to determine which puzzle pieces fit together and which do not. Sometimes pieces that initially appear to clash may also turn out to complement each other, but sometimes they may not. To find out, we must begin assembling the puzzle.

i. Conflict Assessment: Identifying the Sources of Conflict for an Accurate Diagnosis

Not all conflicts are created equal. There are different sources of conflict, and similar to the way we diagnose an illness, we need to first deter-

12. Hernandez-Crespo Gonstead, *supra* note 5.

13. Hernandez-Crespo Gonstead, *supra* note 5, at 716 (introducing the Cultural Value Discernment Tool). Patrick M. Lencioni, *Make Your Values Mean Something*, HARV. BUS. REV., Jul. 2002, at 113–17 (placing values into four categories: (1) Core Values as deeply-held values which guide actions; (2) Permission-to-Play Values, which reflect the minimum standard of behavior; (3) Aspirational Values, which reflect ideals not yet realized; and (4) Accidental Values, which are spontaneous and reflect current group interests). *See also* Whiting, *The Relevance of Values in Business Negotiations: A Review of the ‘Getting to Yes’ Negotiation Framework* (2018) (on file with author) (analyzing the role of values in the negotiation context).

14. Groyberg et al., *supra* note 2, at 46.

mine a conflict's root cause to treat it properly.¹⁵ For the most part, we treat all conflicts the same. We focus on preventing escalation of conflict, or extinguishing disputes primarily through settlement, arbitration, or litigation.¹⁶ These prescriptions for conflict resolution are insufficient because they usually treat the symptoms and not the underlying illness. Instead, we should seek to understand the source of conflict and select the appropriate process and experts to avoid unnecessary harm to businesses, relationships, and future opportunities.¹⁷

ii. Process Selection for Conflict Resolution: Understanding the Options for Decision-Making to Achieve an Optimal Remedy

Once we have determined the source of conflict, we need to select the appropriate process for resolution.¹⁸ There are a number of factors to consider when selecting a process. Arguably, one of the most significant is the appropriate level of control over process and outcome because parties may be giving away decision-making power.¹⁹

To this end, it is essential to be familiar with the spectrum of options for resolution. The spectrum ranges from processes where we have maximum control over process and outcome (negotiation, mediation, hybrids) to processes in which we delegate control to a third-party adjudicator (hybrids, arbitration, court).²⁰

15. See Mariana Hernandez-Crespo Gonstead, *Remedy Without Diagnosis: How to Optimize Results by Leveraging the Appropriate Dispute Resolution and Shared Decision-Making Process*, 88 *FORDHAM L. REV.* 2165 (2020) (explaining that the source of a conflict must be determined to properly assess and select a process); LAURIE S. COLTRI, *ALTERNATIVE DISPUTE RESOLUTION: A CONFLICT DIAGNOSIS APPROACH* 103–24 (2d ed. 2020) (distinguishing the sources of conflict).

16. See MARY PARKER FOLLETT, *PROPHET OF MANAGEMENT: A CELEBRATION OF WRITINGS FROM THE 1920s* 67–69, 75, 77, 79, 82, 84–86 (Pauline Graham ed., 1995) (suggesting that we need to broaden the ways we address conflict). See also Hernandez-Crespo Gonstead, *supra* note 15, at 2193.

17. See Hernandez-Crespo Gonstead, *supra* note 15, at 2193–203. See also John R. Allison, *Five Ways to Keep Disputes out of Court*, *HARV. BUS. REV.*, Jan.–Feb. 1990, at 166 (describing the harm and cost of litigation for corporations).

18. See generally CARRIE J. MENKEL-MEADOW ET AL., *DISPUTE RESOLUTION BEYOND THE ADVERSARIAL MODEL* (2d ed. 2011); Hernandez-Crespo Gonstead, *supra* note 15, at 2198–212.

19. Hernandez-Crespo Gonstead, *supra* note 15, at 2199–203. See generally Jacqueline Nolan-Haley, *Self-Determination in International Mediation: Some Preliminary Reflections*, 7 *CARDOZO J. CONFLICT RESOL.* 277 (2005) (emphasizing the importance of self-determination in the mediation process: “In short, ‘party’ self-determination in mediation gives ownership of the conflict to the disputants.”).

20. Frank E. A. Sander, Professor of Law, Harvard Univ., *Address at the National Conference on the Causes of Popular Dissatisfaction with the Administration of Justice: Varieties of Dispute Processing* (Apr. 7–9, 1976), in 70 *F.R.D.* 111–18, 120, 124–32 (1976) (introducing the spectrum of processes). See also LISA BLOMGREN AMSLER ET AL., *DISPUTE SYSTEM DESIGN: PREVENTING, MANAGING, AND RESOLVING CONFLICT* 42 (2020) (explaining the “spectrum [that] arrays process options from interest-based processes on the left to rights-based processes on the right” and listing that the processes “[s]hift from nonadjudicative to adjudicative,” “[c]oncentrate more control in the hands of the third party,” “[b]ecome more formal,” “[u]sually become more

While delegating control over process and outcome might seem fair and efficient, it is important to keep in mind that the third-party decision-maker is limited to determining who prevails and what remedies are warranted within the bounds of a specific legal framework.²¹ However, legal answers do not always provide an optimal resolution. What is legally sound might not be the best resolution from a business or relational perspective. In contrast, processes in which the parties keep decision-making power may not only allow more control over the process and outcome, but also potentially maximize value and satisfy the interests of all.²² Yet, in some cases, legal remedies may be the appropriate or best option for those involved.

Therefore, overcoming conflict illiteracy can help us to first assess and understand the type of clash at hand and then select the appropriate process for resolution. This allows parties to integrate their differences or decide that the pieces cannot fit together.

C. *A Roadmap to Leverage Culture and Conflict: Moving from The Current Persuasion Playbook to The New Participation Playbook to Win Without Compromise*

To leverage culture and conflict and *unlock the power of unity*, we need to expand The Current Persuasion Playbook that focuses on de-escalation of conflict by ignoring or downplaying our differences. Instead, we need to embrace The New Participation Playbook that *integrates our differences* and creates opportunities to satisfy the interests of all parties.

i. *The Current Persuasion Playbook: Leading to Sameness and Waste*

Undoubtedly, persuasion is an indispensable skill that leaders use daily and that arguably affects their success.²³ At first glance, it might seem as if persuasion is all we need because it provides efficiency with a maximum degree of predictability. However, it comes with a cost—namely, potentially missing opportunities for innovation and growth.

expensive in terms of time, money, and damage to parties' relationship," and "[b]ecome less flexible in terms of outcomes." See generally MENKEL-MEADOW ET AL., *supra* note 18 for additional processes.

21. See generally Carrie Menkel-Meadow, *When Winning Isn't Everything: The Lawyer as Problem Solver*, 28 HOFSTRA L. REV. 905 (2000) (explaining the boundaries of legal remedies). See also Hernandez-Crespo Gonstead, *supra* note 15, at 2200–07.

22. See generally Menkel-Meadow, *supra* note 21, at 909–10 (stating that the relationships and systems in which the parties operate must be considered).

23. See, e.g., Laura Huang & Ryan Yu, *How to (Actually) Change Someone's Mind*, HARV. BUS. REV. (July 1, 2020), <https://hbr.org/2020/07/how-to-actually-change-someones-mind>. See also Adam Grant, *Persuading the Unpersuadable*, HARV. BUS. REV. (Mar.–Apr. 2021), <https://hbr.org/2021/03/persuading-the-unpersuadable> (advocating for the critical role persuasion plays in the success of a business organization).

When we persuade others, our perspective prevails. If this is the case, we might waste potential because the solution may reflect a limited perspective. Furthermore, the lack of meaningful consideration of others' input can lower the level of engagement.²⁴ Therefore, before we move forward, we must dismantle three critical myths of The Current Persuasion Playbook: #1 Avoid Conflict, #2 Just Find Common Ground, and #3 Just Reach Compromise. These myths attempt to suppress our unique differences, thwarting the possibility of *integrating our unique contributions to create what does not yet exist*.

ii. *The New Participation Playbook: Winning by Unlocking the Power of Unity and Satisfying All*

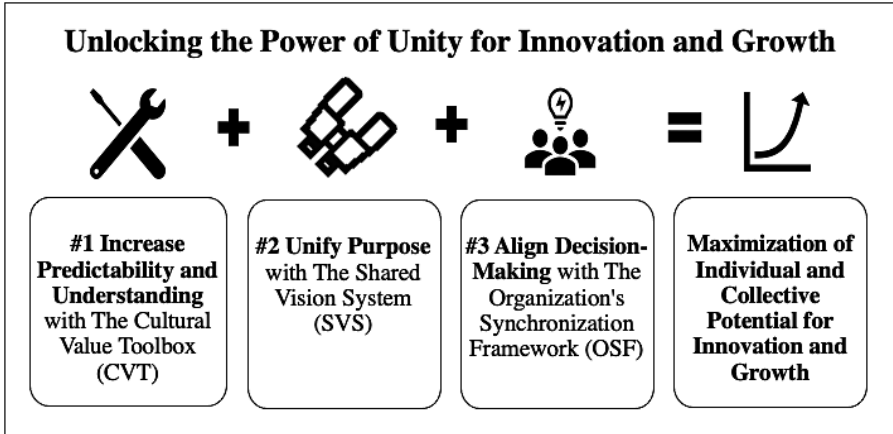
To move forward and *reach higher levels of innovation and growth*, we need to embrace a New Participation Playbook. Participation can be defined as *Persuasion Plus (P+)*. This means that while we need to be able to persuade, *we also need to enhance mutual understanding*. Understanding each other requires humility and authentic curiosity to realize that *everyone has a unique role to play*, and that there is always something we can learn.

The New Participation Playbook suggests that *participation is essential to integrate our differences and unlock the power of unity*. To this end, we need three Executive Strategies: #1 Increase Predictability and Understanding using The Cultural Value Toolbox (CVT), #2 Unify Purpose using The Shared Vision System (SVS), and #3 Align Decision-Making using The Organization's Synchronization Framework (OSF). With these Executive Strategies, organizations can meaningfully engage their members in negotiation and conflict resolution.

When leaders leverage culture and conflict, they are able to model a more effective participatory leadership style. Furthermore, they are able to develop the structures, procedures, and incentives that maximize individual and collective potential.

24. See, e.g., LAWRENCE E. SUSSKIND & JEFFREY L. CRUIKSHANK, *BREAKING ROBERT'S RULES: THE NEW WAY TO RUN YOUR MEETING, BUILD CONSENSUS, AND GET RESULTS* (1st ed. 2006) (discussing the limitations of majority rule).

TABLE 1: UNLOCKING THE POWER OF UNITY FOR INNOVATION AND GROWTH



II. THE CURRENT PERSUASION PLAYBOOK: DISMANTLING THREE MYTHS THAT LEAD TO SAMENESS AND WASTE (#1 AVOID CONFLICT, #2 JUST FIND COMMON GROUND, AND #3 JUST REACH COMPROMISE)

One of the essential premises of The Current Persuasion Playbook is that differences are a liability, and therefore, sameness (or uniformity) is the ultimate goal. The issue with persuasion as the main mode to achieve efficiency and predictability is that it may significantly restrict *the power of the whole*.²⁵

Viewing differences as a liability starts with the socialization process of many of our children, who have sameness ingrained into their DNA. These children develop the habit to conform in social interactions that can still be observed in adulthood.²⁶ Early in life, children internalize that the consequences of being different can be painful.²⁷ They learn to be more like replaceable Legos than the unique pieces of a puzzle.

Yet, the problem with being a Lego is that striving for sameness does not always engage the heart. Simply put, Legos tend to merely survive. In contrast, the pieces of the puzzle generally have the potential to thrive be-

25. See ROGER FISHER ET AL., GETTING TO YES: NEGOTIATING AGREEMENT WITHOUT GIVING IN 42–82 (3d ed. 2011) (arguing that positional bargaining misses opportunities to “invent options for mutual gain.”).

26. See, e.g., Peter Bregman, *The High Cost of Conformity and How to Avoid It*, FORBES (Oct. 22, 2015, 1:57 PM), <https://www.forbes.com/sites/peterbregman/2015/10/22/the-high-cost-of-conformity-and-how-to-avoid-it/> (“But I know that it’s hard. They would have been risking their friends, their jobs. They would have violated the trust of some co-workers in order to maintain the trust of other co-workers and customers. They would have had to stand alone. Those are hard decisions to make.”).

27. See, e.g., R. J. PALACIO, WONDER (2012) (telling the story of how difference in appearance led to a child’s rejection).

cause they *integrate their unique differences* and ultimately find deeper purpose in their lives.

As parents, we want the best for our children, and just learning to be a Lego may be a significant disadvantage. Not only may children be unfulfilled and waste their unique potential, but they may also be less competitive because they may not be able to perform at the same level in all areas. Yet, what is true at home might not be true at work.

In the workplace, the reality is, that it is easier to lead Legos than puzzle pieces. Legos will likely put up less resistance to persuasion but they also might be less engaged than puzzle pieces. When others mainly follow orders instead of engaging their brains and hearts, it can significantly affect performance.

Businesses are composed of both people and systems. People are the ones who recognize whether and when systems need to change and adapt.²⁸ Therefore, promoting the development of people, and recognizing their unique differences as puzzle pieces (instead of interchangeable Legos), may prove vital to the long-term sustainability of an organization.

Creating a business culture that primarily values persuasion misses extraordinary opportunities for all members to contribute their unique differences.²⁹ Yet a significant amount of business literature focuses on persuasion as “the single greatest skill.”³⁰ Leaders are given advice on how to persuade using logical arguments, emotional tactics, and peer pressure in order to convince what is called a “detractor.”³¹

While persuasion is necessary at times, it is not sufficient if we want to maximize the potential of the whole team. The fundamental premise of persuasion is that only one, or the majority, can be right. This is a risky proposition because others may have knowledge, expertise, or experience in a particular area that may be necessary for optimal decision-making.³²

Valuing others’ contributions requires the humility and curiosity to acknowledge that they have something significant to add. A broad variety of perspectives is critical to have a complete and accurate picture of complex

28. See, e.g., Christopher A. Bartlett & Sumantra Ghoshal, *Changing the Role of Top Management: Beyond Systems to People*, HARV. BUS. REV., May–June 1995, at 132, 132–42 (discussing how companies need to focus on people instead of systems because systems fail and become obsolete).

29. See generally Mariana Hernandez-Crespo Gonstead & Rachana Chhin, *God’s Participatory Vision of a Global Symphony: Catholic Business Leaders Integrating Talents through Dispute and Shared Decision System Design*, 5 HUMANISTIC MGMT. J. 85 (2020).

30. See, e.g., Carmine Gallo, *The Art of Persuasion Hasn’t Changed in 2,000 Years*, HARV. BUS. REV. (July 15, 2019), <https://hbr.org/2019/07/the-art-of-persuasion-hasnt-changed-in-2000-years> (“The ability to persuade, to change hearts and minds, is perhaps the single greatest skill that will give you a competitive edge in the knowledge economy — an age where ideas matter more than ever.”).

31. Huang & Yu, *supra* note 23.

32. See SUSSKIND & CRUIKSHANK, *supra* note 24, at 41–60 (arguing that in consensus-building processes it is essential to identify who should be at the table).

matters. When all we are trying to do is persuade others, *we waste opportunities to learn and innovate together.*³³ To move beyond The Current Persuasion Playbook, we need to dismantle its three critical myths.

TABLE 2: THE CURRENT PERSUASION PLAYBOOK

The Current Persuasion Playbook		
Myth #1	Avoid Conflict	But, Conflict is the Alarm Signaling What We Deeply Care About ✓ (Our Individual Values)
Myth #2	Just Find Common Ground	But, Common Ground Keeps Us from Uniting Our Uniqueness ✓
Myth #3	Just Reach Compromise	But, Compromise Kills the Will to Create a Way to Satisfy All ✓

A. *Myth #1 Avoid Conflict: But, Conflict is the Alarm Signaling What We Deeply Care About—Keeping the Puzzle Pieces Upside Down*

Myth #1, Avoid Conflict, suggests that we should ignore or disregard our differences, as if doing so will make them eventually disappear. However, *our unique differences, which may trigger conflict, are our individual values. Our individual values reflect what is truly important to us, given our unique purpose.* Values will not simply go away if ignored, but instead, ignoring values may lead to dissatisfaction, and in some cases, negative emotions that may build up until we feel the need to erupt.

Like pain is a signal to the body that something is wrong, *conflict is the alarm of the heart.*³⁴ *Conflict signals what we deeply care about—our values.*³⁵ *If we did not care, then there would be no conflict.* When conflict is ignored, we are not only prolonging an issue, but we are also missing an opportunity to heal and better understand ourselves and others.³⁶ Conflict allows us to turn over the pieces of the puzzle to determine whether they fit together or not.

33. Hernandez-Crespo Gonstead & Chhin, *supra* note 29, at 96.

34. See Diane Musho Hamilton, *Calming Your Brain During Conflict*, HARV. BUS. REV. (Dec. 22, 2015), <https://hbr.org/2015/12/calming-your-brain-during-conflict> (discussing the alarm that conflict sets off in the body and the physical effects of that alarm sounding).

35. See Hernandez-Crespo Gonstead, *supra* note 5 (discussing how what we deeply care about, our values, drive our positions and interests in a conflict); see also Hernandez-Crespo Gonstead, *supra* note 15, at 2215–16.

36. See Hernandez-Crespo Gonstead, *supra* note 15, at 2215–16.

Conflict, like fire, is a powerful tool.³⁷ However, as with fire, if the conflict gets out of control, it can cause damage.³⁸ This is the fear that drives most people to avoid conflict. However, when the flames of fire are channeled, we can produce heat and light, use fire to fuse metals, or illuminate the dark.³⁹ Similarly, if conflict is properly wielded, we may be able to *enhance mutual understanding* and increase the level of engagement. By increasing the level of engagement, we may increase the level of motivation required to collectively create solutions that satisfy all.

B. Myth #2 Just Find Common Ground: But, Common Ground Keeps Us from Uniting Our Uniqueness—Only Finding Similarities Among Puzzle Pieces

Myth #2, Just Find Common Ground,⁴⁰ suggests that when we cannot agree, the first step is to find something in common.⁴¹ Staying on common ground is easy, predictable, and risk free. While common ground may be necessary to connect with others, it is not enough to address the root of the conflict that lives within our unique differences.⁴²

To effectively address conflict, we need to understand why we deeply care about what is at stake.⁴³ Only then will we understand what is driving the conflict. As explained in Myth #1, Avoid Conflict, conflict signals what we care about. *What may create a conflict for you may not create a conflict for somebody else.* Unless we move beyond common ground, we will not be able to learn more about who we are and why we care about the issue at hand. *Without a deeper understanding of ourselves and others, it would be impossible to unite our uniqueness.*

Furthermore, *connecting only through similarities makes us exchangeable.* When conflict inevitably erupts, some might be more inclined to ignore it, minimize it, or if need be, end the relationship and find a replacement, rather than engage in creating a mutually beneficial solution.

Therefore, if we stop at common ground, as Myth #2 suggests, we will never discover what makes us and those around us unique. We are left with piles of puzzle pieces with no way to connect them because they all look the same. If we move beyond common ground, we can *integrate our differences* when possible—achieving higher levels of unity and accomplishing together what we cannot accomplish alone.

37. See Hernandez-Crespo Gonstead, *supra* note 15, at 2191–93 (describing the need to view conflict as a tool).

38. See Hernandez-Crespo Gonstead, *supra* note 15, at 2191–93 (explaining the positive and negative effects conflict can have).

39. See Hernandez-Crespo Gonstead, *supra* note 15, at 2191–93.

40. LEBARON & PILLAY, *supra* note 5, at 22 (“... common ground comes from recognizing commonalities that pave the way forward, even as differences continue to exist.”).

41. See Hernandez-Crespo Gonstead, *supra* note 15, at 2217–18.

42. See Hernandez-Crespo Gonstead, *supra* note 15, at 2217–18.

43. See Hernandez-Crespo Gonstead, *supra* note 5 (explaining the relevance of values).

C. *Myth #3 Just Reach Compromise: But, Compromise Kills the Will to Create a Way to Satisfy All—Puzzle Remains Unassembled*

Myth #3, Just Reach Compromise, suggests that when dealing with differences, the best option is to reach compromise. When we cannot ignore conflict and when common ground is not enough to reach a solution, we have learned to downplay our differences and just compromise.⁴⁴ Compromise requires at least one person to accept less than what is desired, believing that doing so is the best way to reach an agreement.⁴⁵

The problem is that by decreasing the desire or the need to be satisfied, we are also decreasing the capacity to create solutions that completely satisfy those needs.⁴⁶ If there is a will, there is a way. *If there is no will, there will be no way.* Compromise reduces the will and therefore prevents the parties from creating a way to maximize mutual satisfaction. This results in the puzzle being unassembled because we tend to believe *integrating differences* may take significant time and effort or might not be possible.

*Compromise merely divides what already exists, instead of creating options to satisfy the interests of all.*⁴⁷ When we compromise, the assumption is that there are limited resources.⁴⁸ Imagine that we are dividing a pie. In a negotiation, compromise is just deciding the size of the slice or percentage each person is allotted. That could be 50–50, 80–20, or 99–1. Our share of the pie will depend on a number of factors, including how much we need pie, how much we are willing to give up, how many other options we have, how much we care about the relationship, how much power we have, etc. The bottom line is that even if the deal is fair, we are still only dividing what exists, leaving someone not satisfied and potentially leaving value at the table.⁴⁹

Growing up, most of us learn that compromise, by give and take, is the primary way to resolve conflict. Although we can reach a deal through compromise, there are better options. Instead, we could participate in the process of value creation, where the goal is not to merely divide what exists but rather to create options together that satisfy the interests of all. Value

44. See FISHER ET AL., *supra* note 25, at 3–10 (explaining positional bargaining). See also Gary Goodpaster, *A Primer on Competitive Bargaining*, 1996 J. DISP. RESOL. 325, 340–41 (defining competitive bargaining or distributive bargaining which uses the zero-sum methodology).

45. Carrie Menkel-Meadow, *Toward Another View of Legal Negotiation: The Structure of Problem Solving*, 31 UCLA L. REV. 754, 768–75 (1984) (discussing the structure of adversarial negotiating).

46. *Id.* at 775–81 (explaining how a different negotiation model is needed to get the parties to engage about their true desires).

47. *Id.* at 780 (“[T]he process of exaggerated offers is designed to cloak real preferences so that one negotiator cannot obtain unfair advantage over another by knowing what the other really wants.”).

48. *Id.* at 785 (explaining the zero-sum mindset).

49. FISHER ET AL., *supra* note 25, at 3–10 (explaining how arguing over positions creates unsatisfactory outcomes).

creation is about expanding the pie.⁵⁰ There are no winners or losers, but rather partners that share the process of creating a sustainable agreement together.⁵¹

Creating value together is extremely simple. Instead of focusing only on what we want (positions), as we do in compromise, we go deeper and discover the reasons why we want it (interests).⁵² From there we go even deeper to find the underlying motivation for why that reason is important to us (values).⁵³ After we find this information for each party, we then focus mainly on the interests and values underlying the conflict to create options that satisfy the interests of the parties and incorporates their values.⁵⁴

There are plenty of examples that may illustrate how easy and fast it is to create value, the following is a memorable one from a former law student. Consider a situation where only one spouse in a married couple wants to go out to eat, while the other wants to eat at home. If the couple compromises, they will eat at home some days and eat out others—leaving only one person satisfied at any given time.

Instead, the couple could create value by understanding their rationales and values, and then create options that satisfy the interests of both. The spouse who wants to eat out wants a choice among food options and does not want to spend time cooking, which reveals the underlying values of variation and quality time. The other spouse wants to stay home because the spouse wants to retreat and to keep costs down, reflecting the values of tranquility and frugality. The couple could create options that satisfy both, perhaps a meal-exchange potluck with friends—ensuring they have variety, less cooking time, privacy, and low costs. Creating value together through simple decisions at home and at work, as in this example, can over time help to develop the skill to engage more effectively in complex collective decisions.

Having examined the three myths of The Current Persuasion Playbook, we have explored how they limit our interactions and the possibilities to accomplish together what we cannot accomplish alone. When we rely on Myth #1, Avoid Conflict, we keep the pieces upside down, which prevents us from discovering our unique differences. When we rely on Myth #2, Just Find Common Ground, we only group the similar pieces, leaving us with an incomplete task. When we rely on Myth #3, Just Reach

50. See FISHER ET AL., *supra* note 25, at 58–81.

51. See, e.g., SUSSKIND & CRUIKSHANK, *supra* note 24, at 133–53 (proposing that the agreement can be “nearly self-enforcing”).

52. FISHER ET AL., *supra* note 25, at 42–57 (discussing the importance of focusing on interests rather than positions).

53. See Hernandez-Crespo Gonstead, *supra* note 5 (introducing the Cultural Value Discernment Tool which requires connecting the parties’ interests to their values in interest-based negotiation); Hernandez-Crespo Gonstead, *supra* note 15, at 2209–12.

54. Hernandez-Crespo Gonstead, *supra* note 5; Hernandez-Crespo Gonstead, *supra* note 15, at 2209–12.

Compromise, we kill the will to assemble the puzzle, and we accept less than what we truly desire.

The time has come for a New Playbook. Without it, we may find assembling the puzzle impossible. *Identifying and connecting our unique differences in negotiation and conflict resolution is essential to unlock the power of unity and satisfy all.*

III. THE NEW PARTICIPATION PLAYBOOK: THREE EXECUTIVE STRATEGIES TO WIN BY UNLOCKING THE POWER OF UNITY AND SATISFYING ALL (#1 INCREASE PREDICTABILITY AND UNDERSTANDING, #2 UNIFY PURPOSE, AND #3 ALIGN DECISION-MAKING)

The New Participation Playbook provides innovative Executive Strategies to win by *integrating our unique differences*, thereby *unlocking the power of unity*. As I heard growing up, “Every person’s head is its own planet, but we have only one planet for all our heads.” Because we all have unique preferences, sharing the physical world inevitably leads to conflict. Unlike The Current Persuasion Playbook that considers our unique differences as costly liabilities, The New Participation Playbook considers them as invaluable assets. Therefore, in The New Participation Playbook, *the ultimate goal is unity rather than uniformity.*⁵⁵

The New Participation Playbook operationalizes Three Executive Strategies: #1 Increase Predictability and Understanding, #2 Unify Purpose, and #3 Align Decision-Making. Each Executive Strategy equips us with tools, frameworks, or systems to maximize our collective potential.

In this regard, Executive Strategy #1, Increase Predictability and Understanding, is operationalized through the use of The Cultural Value Toolbox (CVT), which allows us to gain deeper knowledge about who we are, predict behavior, and understand the choices we make.⁵⁶ Executive Strategy #2, Unify Purpose, is operationalized through The Shared Vision System (SVS), which allows us to align our individual and collective values to gain a shared sense of direction.⁵⁷ Executive Strategy #3, Align Decision-Making, is operationalized through The Organization’s Synchronization Framework (OSF), which allows us to develop a plan for sharing decision-

55. See Hernandez-Crespo Gonstead, *supra* note 15, at 2215 (“Unity requires knowing not only how to deal with conflict but also how to participate effectively in our daily interactions.”). See also STEPHEN R. COVEY, *THE 7 HABITS OF HIGHLY EFFECTIVE PEOPLE: POWERFUL LESSONS IN PERSONAL CHANGE* 318 (2013) (proposing that lack of unity can be “bitter and lonely” while attaining unity or oneness is the “highest and best” experience we can have).

56. See generally Hernandez-Crespo Gonstead, *supra* note 5.

57. See generally MARIANA HERNANDEZ-CRESPO, *CIVIC NETWORKS LEADING DEMOCRATIC INNOVATION: SOCIAL CAPITAL FOR VALUE CREATION* (2003) (on file with author) (proposing that a “civic mindset” allows us to build together what we cannot create alone and suggesting a training to develop the capacity to maximize individual and collective potential).

making⁵⁸ and effectively addressing conflict⁵⁹ to ensure cohesion and a high level of engagement as we move forward.⁶⁰

The New Participation Playbook uses the human body as a perfect model of *a system of systems in which differences are united*. In this system, all members are interdependent.⁶¹ What happens to one inevitably affects the whole.⁶² *Even though the various parts of the body have different roles, their full potential is only realized as an integrated system.*⁶³ *Therefore, the maximization of individual potential is inextricably linked to the collective potential.*

In this context, imagine if one part of the body tried to make the other parts operate like them (*assimilation leading to uniformity*)—for example, if the eyes tried to persuade the rest of the body to perform the functions of the eyes. The hands might be able to perform some functions, such as reading using Braille or recognizing an object by touching it. However, the hands would not be fulfilling their full potential—performing the role that only they can perform—and other parts of the body might not be able to conform at all.

In contrast, each part of the body should fulfill the role for which it was created; in this way, the whole body is able to accomplish what no part can accomplish alone (*integration leading to unity*). When the hand is allowed to fulfill its purpose, the hand and eyes can work together to accomplish what neither part can accomplish alone: for example, the hand can grab an object and bring it closer to the eyes so that the eyes can better observe the details. Similar to the eyes that persuade the hands to assimilate, we are sometimes inclined to persuade others to adopt our ways, which may lead to sameness and waste. Yet when we allow others to participate and *integrate their unique differences*, it *unlocks the power of unity*. Unity allows the realization of individual and collective potential necessary to more effectively satisfy all.

58. See Hernandez-Crespo Gonstead, *supra* note 15, at 2227–28 (explaining the origin of Shared Decision System Design (SDSD)); Hernandez-Crespo Gonstead & Chhin, *supra* note 29, at 96–98 (utilizing Shared Decision System Design (SDSD) in the business context). See generally Mariana Hernandez-Crespo Gonstead, *A New Chapter in Natural Resource-Seeking Investment: Using Shared Decisions System Design (“SDSD”) to Strengthen Investor-State and Community Relationships*, 18 CARDOZO J. CONFLICT RESOL. 551 (2017) (using Shared Decision System Design (SDSD) in the field of Foreign Direct Investment (FDI)); JACQUELINE NOLAN-HALEY ET AL., *GLOBAL ISSUES IN MEDIATION* 255–57 (2019).

59. Hernandez-Crespo Gonstead, *supra* note 15, at 2191–209 (introducing the Comprehensive Framework for Conflict Resolution that includes culture in the analysis).

60. Each of the frameworks in The Organization’s Synchronization Framework (OSF) that follow has a significant body of theory that can be found in the footnotes of my previous publications.

61. HERNANDEZ-CRESPO, *supra* note 57.

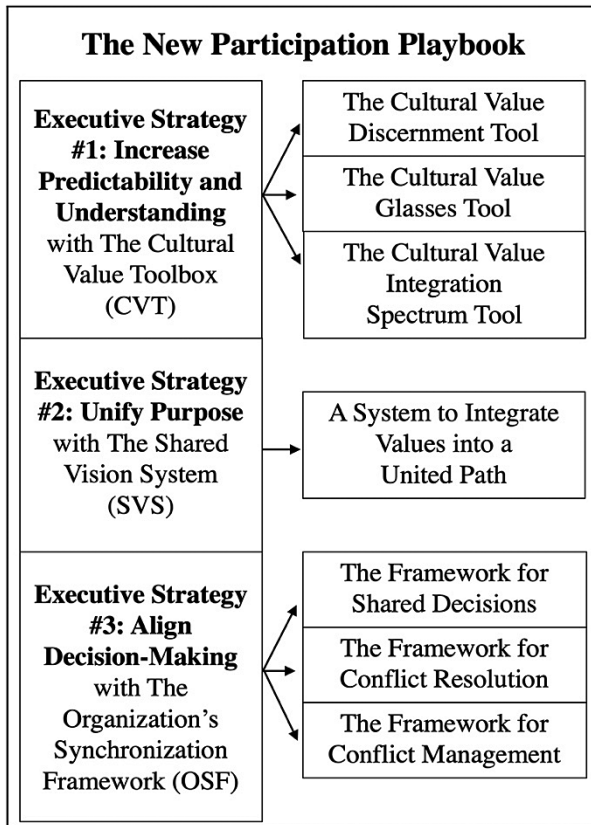
62. HERNANDEZ-CRESPO, *supra* note 57.

63. HERNANDEZ-CRESPO, *supra* note 57.

The world awaits those who want to lead the way forward and *integrate our unique differences*. If we want to be those leaders, we need The New Participation Playbook to realize our individual and collective potential and accomplish together what we cannot accomplish alone.

The New Participation Playbook’s ultimate purpose is to win without compromise, which *unlocks the power of unity* through Three Executive Strategies. The Executive Strategies are: #1 Increase Predictability and Understanding through The Cultural Value Toolbox (CVT) to gain a deeper understanding of who we are individually and collectively, #2 Unify Purpose through The Shared Vision System (SVS) to unite our paths, and #3 Align Decision-Making through The Organization’s Synchronization Framework (OSF) to enhance cohesion as we move forward.

TABLE 3: THE NEW PARTICIPATION PLAYBOOK



A. *Executive Strategy #1: Using The Cultural Value Toolbox (CVT) to Increase Predictability and Understanding—Turning the Puzzle Pieces Over*

To implement Executive Strategy #1, Increase Predictability and Understanding, we use The Cultural Value Toolbox (CVT). The cultural tools allow us to identify individual and collective values so we can better predict preferences and behavior, and enhance understanding of ourselves and others. Instead of keeping the pieces upside down, we can turn them over and find similarities and differences as we move beyond common ground to leverage culture. The Cultural Value Toolbox (CVT) includes three tools: (1) The Cultural Value Discernment Tool, (2) The Cultural Value Glasses Tool, and (3) The Cultural Value Integration Spectrum Tool.⁶⁴ These tools allow us to turn the puzzle pieces over, revealing the values that impact negotiation and conflict resolution.

i. *The Cultural Value Discernment Tool: Identifying the Values that Drive Decision-Making so We Can Predict Behavior*

Using The Cultural Value Discernment (CVD) Tool, we are able to find the driving forces of those at the bargaining table and predict behavior.⁶⁵ This tool allows us to uncover the specific values that drive us in a negotiation. To accomplish this, we simply add one question to the negotiation process. Traditionally, as explained earlier (when contrasting value creation and compromise), the negotiator asks, “What do you want?” (positions) and “Why?” (interests). The Cultural Value Discernment Tool suggests that we dig deeper to find the value, asking, “Why is that important to you?”—in other words, “Why do you care?”⁶⁶ This is an important tool for when we engage with others as part of a long-term relationship, because it provides the information needed about the other person’s motivation so that we can make an optimal agreement, enhance understanding, and increase predictability for future decision-making.⁶⁷

For example, during a negotiation, representatives of a group might state that they want a particular security system around a window because it is invisible. If that is all we know, we will be able to create options, but we will miss an opportunity to learn the underlying values of the representatives of the group. If we ask why invisibility is important to them, we might find out that the group values aesthetics. This knowledge may prove useful

64. See Hernandez-Crespo Gonstead, *supra* note 5. See also NOLAN-HALEY ET AL., *supra* note 58, at 94–96.

65. See Hernandez-Crespo Gonstead, *supra* note 5 (introducing the Cultural Value Discernment (CVD) tool which requires connecting the parties’ interests to their values).

66. Hernandez-Crespo Gonstead, *supra* note 5.

67. See Hernandez-Crespo Gonstead, *supra* note 5, at 719 (“...the Cultural Value Discernment (CVD) provides relevant information, by revealing the value motivating the other’s decision-making process.”).

for future decision-making, as it helps predict others' preferences and behavior.

ii. *The Cultural Value Glasses Tool: Realizing the Impact of Values to Understand Why We Make the Choices We Make*

The Cultural Value Glasses (CVG) Tool allows us to understand how we and others filter and interpret facts.⁶⁸ The Cultural Value Glasses we each wear are composed of the numerous lenses that reflect our individual values, as well as the collective values we have adopted from the culture of the groups to which we belong.⁶⁹

For example, the glasses of an executive originally from Japan and trained in the U.S. might include the lenses of an urban dweller, an engineer, a musician, etc.—as well as additional values of functionality, cost-efficiency, peace, etc. which are consistent with the executive's individual purpose.

All of these lenses are layered to form our unique Value Glasses.⁷⁰ Negotiators and conflict resolvers need to understand their own glasses and how they color their perceptions, thereby impacting their interpretations and interactions. Once negotiators and conflict resolvers understand their own unique glasses, they can borrow the glasses of those with whom they interact. Wearing someone else's glasses allows them to gain awareness about how others gather or ignore data, as well as their interpretations, assumptions, and expectations.⁷¹ Neglecting to use this tool can lead to errors and misunderstandings of who we and others are and the motivations for the choices we all make.

iii. *The Cultural Value Integration Spectrum Tool: Assessing Our Values to Decide Whether to Coexist, Collaborate, or Complement*

Once we have identified our individual values and their impact on our unique Value Glasses, The Cultural Value Integration Spectrum (CVIS) Tool helps us to mutually discern the level of integration desired: coexistence (minimal), collaboration (moderate), or complementarity (maximum).⁷² The Cultural Value Integration Spectrum Tool can be used when making decisions regarding new relationships. In the social context, this tool can be useful when choosing friends or deciding with whom to share

68. See Hernandez-Crespo Gonstead, *supra* note 5, at 723 (introducing the Cultural Value Glasses (CVG) tool which allows one to assess how culture impacts our cognitive processes).

69. Hernandez-Crespo Gonstead, *supra* note 5, at 724.

70. Hernandez-Crespo Gonstead, *supra* note 5, at 724.

71. Hernandez-Crespo Gonstead, *supra* note 5, at 724.

72. See Hernandez-Crespo Gonstead, *supra* note 5, at 729 (introducing the Cultural Value Integration Spectrum (CVIS) tool which allows mutual discernment for the level of integration).

one's life. In the business context, this tool can be useful, among others, to attract and retain global talent, to form strategic partnerships, or to conduct mergers and acquisitions.

To this end, potential partners use the tool to examine their values and the purpose of their relationship in order to determine the level of integration desired.⁷³ Depending on the purpose, partners might only coexist (sharing physical space and resources), or partners might collaborate (also sharing at the intellectual level), or partners might complement (also sharing on the emotional, social, and spiritual levels).⁷⁴

Neglecting to use this tool as a guide for making informed decisions about the level of integration can lead to an unforeseen clash of values.⁷⁵ This could result in erosion or termination of the relationship and, in some cases, significant financial cost.

B. Executive Strategy #2: Using The Shared Vision System (SVS) to Unify Purpose—Finding Similarities and Differences Among Puzzle Pieces

To implement Executive Strategy #2, Unify Purpose, we use The Shared Vision System (SVS), which allows us to align our values and unite our sense of direction. This system enables us to take the pieces of the puzzle that have been turned over and group them by their similarities *and* differences. In this way, we can identify when the pieces fit together and when they do not.

The Shared Vision System (SVS) allows us to create a shared sense of direction within a group or organization by aligning thinking, interacting, and learning.⁷⁶ If we mainly rely on a persuasive approach to develop a sense of direction, only one vision can prevail. While the persuasive ap-

73. Hernandez-Crespo Gonstead, *supra* note 5, at 732 (“Therefore, using the Cultural Value Integration Spectrum (CVIS) as a tool to identify the level of compatibility becomes critical because if the values have some degree of compatibility, and a certain level of integration is desirable, then the process or system design can be used as an opportunity to allow the parties or stakeholders to make unique contributions to the whole.”).

74. Hernandez-Crespo Gonstead, *supra* note 5, at 729 (“On one end of the Cultural Value Integration Spectrum (CVIS), when cultures are less compatible due to their core values, processes and systems can be designed with the goal of creating harmonious co-existence. In the middle, when cultures are more compatible because they share a common goal, then systems can be designed to promote collaboration. On the other end, when cultures are most compatible because they share core values, then systems can be designed to promote complementarity. The parties themselves will have to engage in a process of mutual discernment with regard to the level of cultural value integration they desire. In other words, which, if any, values from each culture will be fused to give rise to a new shared culture.”).

75. Hernandez-Crespo Gonstead, *supra* note 5, at 730 (“If parties do not assess their values to determine the level of cultural integration before systems are designed, processes can become a path for assimilation, where the dominant culture becomes the norm.”).

76. Hernandez-Crespo Gonstead, *supra* note 15, at 2213–23 (discussing the need to develop a participatory approach through a systemic mindset); Hernandez-Crespo Gonstead, *supra* note 57.

proach might work, it fails to *integrate the unique contributions* of the whole team, potentially leading to sameness and waste.

The alternative is to *integrate everyone's purpose into a united path*.⁷⁷ Although initially it may take more time and effort, this can lead to higher levels of engagement and cohesion, thereby proving to be more effective and efficient in the long term.⁷⁸ This approach may also be more sustainable because it allows each member to fulfill their unique individual potential, and at the same time, maximize collective potential.

The Shared Vision System (SVS) is valuable for those who are in positions in which they are generally responsible for defining the mission, vision, and strategic planning for their groups or organizations. This system is also beneficial for executives as they conceptualize the collective vision for the next chapter of their organization. This system can be especially beneficial when companies undergo the challenges of reorganization, or when companies have opportunities for growth, such as mergers and acquisitions. The Shared Vision System (SVS) can also be critical in social settings because it is in families and communities where we ideally begin to learn how to unite our paths with those with whom we share daily life.

The Executive Strategy #2, Unify Purpose, is indispensable for groups and organizations, as well as families and communities, to ensure a shared sense of direction. Without a shared path, there can be discord and disengagement at best, or dissolution at worst.

C. *Executive Strategy #3: Using The Organization's Synchronization Framework (OSF) to Align Decision-Making—Assembling the Puzzle*

To implement Executive Strategy #3, Align Decision-Making, we use The Organization's Synchronization Framework (OSF).⁷⁹ Now, we are

77. COVEY, *supra* note 55, at 274 (“Sameness is not oneness; uniformity is not unity. Unity, or oneness, is complementarity, not sameness. Sameness is uncreative . . . and boring. The essence of synergy is to value the differences. I’ve come to believe that the key to interpersonal synergy is intrapersonal synergy, that is synergy within ourselves.”).

78. Hernandez-Crespo Gonstead, *supra* note 15, at 2222–23 (explaining the need to focus on our unique differences to reach complementarity); COVEY, *supra* note 55, at 49 (“*Interdependence* is the paradigm of *we—we* can do it; *we* can cooperate; *we* can combine our talents and abilities and create something greater together.”).

79. The Organization's Synchronization Framework (OSF) is an umbrella that incorporates three distinct frameworks (1) Shared Decisions (Shared Decision System Design, (SDSD)), (2), Conflict Resolution (Comprehensive Framework for Conflict Resolution, (CFCR)), (3) Conflict Management (Conflict Management Mechanisms (CMMs), and Dispute System Design (DSD)). For further reading on each distinct process, see Hernandez-Crespo Gonstead, *supra* note 15 (introducing Shared Decision System Design (SDSD), Comprehensive Framework for Conflict Resolution (CFCR), and Dispute System Design (DSD) frameworks). See also Roberto Echandi & Mariana Hernandez-Crespo Gonstead, *Investor-State Conflict Management*, in ELGAR ENCYCLOPEDIA OF INTERNATIONAL ECONOMIC LAW 337–38 (Thomas Cottier & Krista Nadakavukaren Schefer eds., 2017) (defining conflict management in the context of Foreign Direct Investment and including SDSD as an integral part of CMM); Greg Satell, *Get Your Organization to Run in*

ready to assemble the puzzle, but we need Executive Strategy #3 to determine how we will handle any decisions that need be made, or any conflicts that arise, along the way. The Organization's Synchronization Framework (OSF) includes: (1) The Framework for Shared Decisions to decide how we are going to decide, (2) The Framework for Conflict Resolution to decide how we are going to address conflict when it arises, and (3) The Framework for Conflict Management to decide how we are going to prevent conflict escalation. Together, these frameworks ensure synchronization.

i. The Framework for Shared Decisions: Value-Based Criteria for Deciding How We Are Going to Decide

The Framework for Shared Decisions (also known as Shared Decision System Design, or SDSD) helps executives of groups and organizations decide the appropriate level of decision-making as they implement a shared vision.⁸⁰ On the path from A to B, there will be a number of critical decisions to make. Those decisions will affect various stakeholders in different ways. The Framework for Shared Decisions provides a value-based criteria for executives to make informed decisions about the stakeholders who need to be included, and their corresponding appropriate level of participation.⁸¹

Executives can use The Cultural Value Discernment Tool (introduced in Executive Strategy #1) to determine how much the various stakeholders care about a specific matter.⁸² This value-based assessment plays a critical role in how executives decide what the various stakeholders' appropriate level of participation (information, consultation, negotiation) should be.⁸³ The minimum level of participation is information, where the decision-maker simply announces the decision. The intermediate level of participation is consultation, where the decision-maker allows others to potentially influence the decision.⁸⁴ The maximum level of participation is negotiation, where executives share decision-making power. The negotiation process

Sync, HARV. BUS. REV. (Nov. 5, 2014) (discussing the importance of synchronicity for business organizations).

80. Hernandez-Crespo Gonstead, *supra* note 15, at 2218–23.

81. Hernandez-Crespo Gonstead, *supra* note 15, at 2223–35 (explaining the analytical framework for Shared Decision System Design (SDSD)).

82. *See* Hernandez-Crespo Gonstead, *supra* note 5, at 716–20. *See also* Hernandez-Crespo Gonstead, *supra* note 15, at 2218–33.

83. *See* Mariana Hernandez-Crespo Gonstead, *Beyond Investor-State Disputes: Intercultural Capacity Building to Optimize Negotiation, Mediation, and Conflict Management*, 17 U. ST. THOMAS L.J. 251, 292–95 (2021). *See also* Hernandez-Crespo Gonstead, *supra* note 15, at 2230–32. ROGER FISHER & DANIEL SHAPIRO, BEYOND REASON: USING EMOTIONS AS YOU NEGOTIATE 87–89 (2005) (explaining how the process of informing, consulting, or negotiating can have an emotional impact because it affects the core concern of autonomy); Tina Nabatchi, *Putting the "Public" Back in Public Values Research: Designing Participation to Identify and Respond to Values*, 72 PUB. ADMIN. REV. 699, 702 fig.1 (2012); Sherry R. Arnstein, *A Ladder of Citizen Participation*, 35 J. AM. PLAN. ASS'N 216, 217 (1969).

84. Hernandez-Crespo Gonstead, *supra* note 15, at 2231–32.

could be persuasion-based, leading to uniformity, or participation-based, leading to unity. To *win without compromise*, executives could use this opportunity to create value with the stakeholders, thereby *unlocking the power of unity* and satisfying all.

In contrast, if those that deeply care about the matter are not included in the decision-making process yet are affected by it, then they might become an obstacle by disengaging or disrupting the work of the group.⁸⁵ For example, imagine that a company decided to remodel its lobby. Upper management designed it to look like the lobby of a hotel with open space and modern technology. Workers who previously sat behind desks were suddenly standing for long periods of time, managing their workload with iPads rather than desktop computers. Even though this was a very nice setting for the clients, it was not an ideal situation for the workers, who were not included in the decision-making process. As a result, it led to higher levels of dissatisfaction and an increased turnover rate. This could have been avoided if the executives had used The Framework for Shared Decisions to determine who needed to be included and their appropriate level of participation in the decision-making.

Missing the input of those affected by a decision could be detrimental to the level of engagement and to the relationships among the members of the organization, potentially resulting in significant financial cost. This framework could be particularly useful to help organizations undergoing a merger and acquisition to integrate into a cohesive whole. When assembling the puzzle, it is imperative to consider which players need to be involved and what their respective level of participation should be in the decision-making process.

ii. The Framework for Conflict Resolution: Criteria for Selecting the Appropriate Resolution Process

The Framework for Shared Decisions (introduced in the prior section) allows us to address differences outside the conflict zone, however, more is needed for when differences inevitably clash, and we land within the conflict zone. To this end, The Framework for Conflict Resolution (also known as Comprehensive Framework for Conflict Resolution, CFCR) allows us to effectively address differences once they have escalated into a conflict. This framework incorporates culture as a transversal factor and provides the necessary criteria to assess conflict and determine the appropriate process for resolution.⁸⁶ The Framework for Conflict Resolution can be used to accurately diagnose a conflict by identifying its source, the relationship and

85. See SUSSKIND & CRUIKSHANK, *supra* note 24, at 41–60; see also *supra* text accompanying note 32. See also Hernandez-Crespo Gonstead, *supra* note 15, at 2230–32 (discussing the relevance of deciding who should be at the table).

86. See Hernandez-Crespo Gonstead, *supra* note 15, at 2191–213 (specifically referencing Table 1, at 2199).

mindsets of the parties, the impact of parties' interaction within the broader community, and third parties affected.⁸⁷

For example, consider how doctors familiarize themselves with the symptoms and sources of illnesses so they can accurately diagnosis and treat patients.⁸⁸ When a person has a headache, a doctor does not jump to the conclusion that the person has a brain tumor, as the headache could be caused by dehydration or a migraine. A diagnosis is necessary to determine the cause. Similarly, since not all conflicts are created equal, it is indispensable to have an accurate diagnosis of the source of conflict.

We need to become doctors of conflict to make informed decisions about the selection of process and experts so that once we have made an accurate diagnosis, the conflict can be treated through the appropriate process for resolution.⁸⁹ In the headache example, depending on the cause, the treatment might be a simple glass of water, a pill for migraines, or brain surgery. Even if the headache was caused by a brain tumor, there might be other options for treatment besides surgery, such as chemotherapy and radiation, which appropriately address the issue.

Similarly, taking a conflict straight to court might be an option, but there are other processes to consider that could be more effective for addressing the source of the issue.⁹⁰ Court might be the appropriate process if parties have a conflict over legal rights, but many conflicts can be resolved without resorting to adversarial processes.⁹¹ Primarily addressing conflicts through the court system not only limits the outcomes available to satisfy the interests of the parties, but can also erode relationships. Therefore, consideration of the spectrum of conflict resolution processes is critical to appropriately treat the diagnosed conflict (the spectrum of conflict resolution processes is explained in (B) Leveraging Conflict, (ii) Process Selection).

The Framework for Conflict Resolution provides criteria to help us make informed decisions, which in turn will likely save time and resources when addressing conflict. Thus, this framework could be useful to all of us, but especially useful for executives as they oversee the impact of conflict throughout the entire organization. In this regard, in-house counsel can play a critical role in advising executives as they decide the appropriate process for resolving the issue the organization faces. Without The Framework for Conflict Resolution, there is likely no effective criteria that takes culture into account to diagnose the source of the conflict nor to determine the most

87. See Hernandez-Crespo Gonstead, *supra* note 15, at 2193–212.

88. See Hernandez-Crespo Gonstead, *supra* note 15, at 2193–95.

89. See Hernandez-Crespo Gonstead, *supra* note 15, at 2198–99.

90. See generally Menkel-Meadow, *supra* note 21 (suggesting the limitations of the court system and the need to consider other processes); Hernandez-Crespo Gonstead, *supra* note 15, at 2200–03.

91. See Menkel-Meadow, *supra* note 21, at 906–10, 921.

appropriate treatment for resolution. How conflict is addressed can have a profound impact on shaping the culture and morale of an organization.

iii. *The Framework for Conflict Management: Criteria for Effectively Engaging with Conflict to Prevent Escalation*

In addition to the frameworks for Shared Decisions and Conflict Resolution, we need a framework to prevent conflict escalation. The Framework for Conflict Management (derived from Conflict Management Mechanisms (CMMs)⁹² and Dispute System Design (DSD)⁹³) provides the criteria to proactively and effectively engage with conflict before it becomes a legal dispute.⁹⁴ To this end, executives, assisted by experts, need to evaluate how conflict is currently managed and determine what is working and what needs to be improved. This assessment is the foundation for designing a system to effectively manage conflict.⁹⁵

The Framework for Conflict Management is essential for groups and organizations because their members have ongoing interactions in which conflict will arise and potentially escalate.⁹⁶ In any relationship, the question is not if there is going to be conflict, but when, and how it will be

92. Roberto Echandi, *Complementing Investor-State Dispute Resolution: A Conceptual Framework for Investor-State Conflict Management*, in PROSPECTS IN INTERNATIONAL INVESTMENT LAW AND POLICY 270, 270–305 (Roberto Echandi & Pierre Sauvé eds., 2013) (introducing the CMMs framework); Roberto Echandi, *Straightening the Purpose of International Investment Law from Litigation to Consolidating Relationships: The Role of Investor-State Conflict Management Mechanisms*, 17 U. ST. THOMAS L.J. 219 (2021) (discussing the developments of the CMM framework and its benefits). See also Echandi & Hernandez-Crespo Gonstead, *supra* note 79.

93. Conflict Management in Foreign Direct Investment utilizes, and builds on, the key principals of Dispute System Design, which refers to present and future disputes and has been defined as “the applied art and science of designing the means to prevent, manage, and resolve streams of disputes or conflict.” LISA BLOMGREN AMSLER ET AL., DISPUTE SYSTEM DESIGN: PREVENTING, MANAGING, AND RESOLVING CONFLICT 7 (2020). For some of the seminal pieces on DSD see WILLIAM L. URY ET AL., GETTING DISPUTES RESOLVED: DESIGNING SYSTEMS TO CUT THE COSTS OF CONFLICT (1st ed. 1988); CATHY CONSTANTINO & CHRISTINA SICKLES MERCHANT, DESIGNING CONFLICT MANAGEMENT SYSTEMS: A GUIDE TO CREATING PRODUCTIVE AND HEALTHY ORGANIZATIONS (1st ed. 1996); Lisa Blomgren Amsler et al., *Christina Merchant and the State of Dispute System Design*, 33 CONFLICT RESOL. Q. S7 (2015); Stephanie Smith & Janet Martinez, *An Analytic Framework for Dispute Systems Design*, 14 HARV. NEGOT. L. REV. 123 (2009). For some of the leading textbooks on DSD, see BLOMGREN AMSLER ET AL., *supra*; and NANCY H. ROGERS ET AL., DESIGNING SYSTEMS AND PROCESSES FOR MANAGING DISPUTES (2013). For symposia on DSD, see Tony L. Simons, *Practitioners of a New Profession? A Discussion Summary of the First Dispute System Design Conference*, 5 NEGOT. J. 401 (1989); *The Second Generation of Dispute Systems Design: Reoccurring Problems and Potential Solutions*, 21 OHIO ST. J. DISP. RESOL. 1 (2008); *Dispute Systems Design Across Contexts and Continents*, 14 HARV. NEGOT. L. REV. 1 (2008); *Dispute System Design: Justice, Accountability and Impact*, 13 U. ST. THOMAS L.J. 159 (2017).

94. See Hernandez-Crespo Gonstead, *supra* note 83.

95. See *supra* note 93 and 94.

96. See Hernandez-Crespo Gonstead, *supra* note 15, at 2224–27 (describing Dispute System Design).

addressed.⁹⁷ Therefore, it is naïve and risky to start a family, a company, or a nonprofit without a plan for conflict management. The Conflict Management Framework allows us to effectively engage with conflict to minimize harm and maximize potential by preventing its escalation.

IV. CONCLUSION

The New Participation Playbook is for those who want to *win without compromising*. It suggests that by leveraging culture and conflict, we can *integrate our unique differences*, thereby *unlocking the power of unity*, and satisfying all.

In The Current Persuasion Playbook, *assimilation leads to uniformity*, which usually results in sameness and waste. In contrast, in The New Participation Playbook, *integration leads to unity*, which usually results in innovation and growth.

To this end, The New Participation Playbook introduces Three Executive Strategies rooted in values to expand The Current Persuasion Playbook. The Three Executive Strategies operationalize tools, frameworks, and systems to move from persuasion to participation. Executive Strategy #1, Increase Predictability and Understanding, uses The Cultural Value Toolbox (CVT), which allows us *to use values to predict and understand each other*. Executive Strategy #2, Unify Purpose, uses The Shared Vision System (SVS), which allows us *to integrate values to unite our paths*. Executive Strategy #3, Align Decision-Making, uses The Organization's Synchronization Framework (OSF), which allows us *to use values to ensure cohesion and engagement* while walking the path together.

As the global puzzle remains incomplete, the world can no longer wait because there is simply too much wasted potential. To assemble the puzzle, we need to start using The New Participation Playbook at home and at work.

It is time to develop the necessary skills to *integrate our unique differences and accomplish together what we cannot accomplish alone*. Only when *all members* of a group or organization are able to contribute their unique differences, will we be able to maximize our individual and collective potential.

Maximizing collective potential is vital to thrive in our global economy. Executives who are able to *integrate the differences of all the members* of their organization will have a competitive advantage. By *unlocking the power of unity*, they will be able to lead us to the unprecedented levels of innovation and growth the world yearns for.

97. William L. Ury, *Foreword to* CONSTANTINO & MERCHANT, *supra* note 93. See also Mariana Hernandez-Crespo Gonstead, *Introduction to the Symposium: Leveraging on Disruption: The Potential of Dispute System Design for Justice, Accountability, and Impact in Our Global Economy*, 13 U. ST. THOMAS L.J. 159, 167 (2017) (“DSD can be a powerful tool for analysis, reform, and reconceptualization of old systems.”).