



## Finding Common Ground in the Soil of Culture

*Phyllis E. Bernard\**

***Editors' Note:** Much of the purpose of conducting international training in negotiation, Bernard points out, is to facilitate international trade. Showing how international trade is affected by a host of business, faith-based and traditional customs for which typical international negotiators are ill-prepared, she explicitly places these on the table so that they can be taken into account fairly. The key to success, she argues, is to train for modern transactions but in closer alignment with the social environments where they take place.*

### Introduction

#### ***Balancing General Predictability with Particular Cultures***

For millennia, commerce has flourished or failed in proportion to the ability of producers, purchasers, transporters and brokers to find common ground for trade – literally and figuratively. Customs rooted in the native soil of a culture traveled along with the goods that were traded. In time new commercial customs evolved, blending practices from many social orders, economic systems and faith traditions. In this way pre-modern global commerce supported a rich variety of business customs that met a variety of social needs.

Today's global trade regimes seek to replace this organic mixture with something artificial. Public and private law schemes seem poised to impose uniform, objective standards intended to render contract terms nearly fungible worldwide, and thus reasonably predictable. Although widely endorsed by global elites, this movement encounters resistance at the grassroots level, where traditional cul-

---

\* **Phyllis E. Bernard** is professor of law and director of the Center on Alternative Dispute Resolution at the Oklahoma City University School of Law. Her e-mail address is [phyllis\\_bernard@sbcglobal.net](mailto:phyllis_bernard@sbcglobal.net).

ture most strongly shapes business conduct. Self-enforcing business deals need acceptance among all stakeholders – not only those who negotiated the contract. To achieve this, foreign businesses usually must defer in part to local, regional or national customs. Defer frequently enough and business arrangements become unpredictable. The ultimate success or failure of modern global trade systems may depend upon their capacity to balance the desire for predictability under the law with the need to adapt to cultural circumstances.

In the most positive light, we characterize such balancing as the process of harmonization. More sobering terminology would describe this balancing as an effort to resolve deep-rooted, potentially volatile, tensions. An even more somber – and often unwelcome – view sees this tension as a point of political and social vulnerability in the emerging markets of new democracies. In these settings, contemporary international commerce operates amidst concerns that modern global trade merely replays the power dynamics of colonialism and neo-colonialism – incrementally, contract by contract (Stiglitz 2003).

### *Negotiating Common Ground and Common Values*

This chapter presents an approach to contract negotiation that can mitigate concerns about the use and misuse of power in transactions among parties from radically different cultures, with a special focus on business deals in developing countries. The approach does not presume to re-balance power – an action reserved to law and its enforcement mechanisms. Rather, this chapter describes how principled negotiation based on shared values can create common ground that supports transactions between foreign and local businesses. Negotiation based on shared values can bring modern transactions into closer alignment with the social environment where the deal must find fertile soil to take root and bear fruit.

Globalized elites representing the negotiating companies may or may not consciously acknowledge that cultural gaps exist and must be bridged. Yet, mid-level and front-line managers of the same companies struggle daily – along with their workers – to balance custom, culture, and the new global trade (Amaeshi 2002).

The approach recommended for consideration asks that the next generation of negotiators broaden their perspective, just as other internationalists have. Success will turn on making room at the table for moral considerations, including those rooted in faith traditions that have shaped societies in these emerging markets.

## Principled Negotiation Based on Shared Cultural Values: Concept

The general concept of principled negotiation is not new; but its application as suggested in this chapter may offer a valuable addition to the next generation of training for commercial negotiation. The approach requires that parties recognize a set of shared values that form the common ground for all problem-solving. These values may have roots in the parties' home-based culture, or in a broader corporate culture with which all parties identify. For example, corporate cultural values are articulated in commodity supply chain standards and certification programs, such as those created by the Forest Stewardship Council or the World Cocoa Foundation, or in standards for manufacturing supply chains developed by The Ethical Trade Initiative and the Fair Labor Association.

Principled negotiation based on shared values as described in this chapter derived originally from efforts by this author and others to resolve identity conflicts.<sup>1</sup> This approach assured that implied, otherwise silent norms prized by the parties were made explicit, to assure negotiations recognized and addressed those norms. In practice, the process of articulating shared values usually revealed to parties that they shared much more common ground than initially assumed. Even if the ultimate resolution differed from the parties' initial demand, the parties typically perceived a process that did not depend solely upon the skillful manipulation of power as fair. Framing resolutions in terms of accepted, familiar cultural norms enhanced voluntary compliance by the parties.

When applied to the negotiation of commercial agreements in emerging markets, principled negotiation can identify and prevent conflicts similarly founded on perceived mis-alignments of values.

## Power, Coercion and the Moral Free Space of First Generation Negotiations

### *Power*

A cursory look at modern patterns of global trade suggests that the twenty-first century might be retracing earlier patterns originating in colonial and post-colonial periods. Closer scrutiny reveals an irony: former colonies of the West, *viz.*, China and India, appear on a trajectory that may soon dominate markets of their former colonizers. Such growing economic strength might encourage a dismissive attitude about power dynamics in negotiations. Some may question: need the next generation of transnational negotiators concern itself with this issue?

Yes, it must. A decade of change does not erase centuries of *status quo ante*, especially when historical power at the macro level has embedded itself in the very terminology and model of bargaining practices at the micro level. Power has always been and remains central to commercial negotiations. Perceptions of fairness hinge upon appropriate canalizing of power (Yu 2002).

When the globe presented a tapestry of customary negotiation standards and practices, fair terms resulted from leveraging the power of the individuals, clans or guilds involved in the transaction. In the backdrop lay the threat of whatever violent coercion a party could bring to bear, through mercenary forces or the military of a city-state or nation-state. Arguably, violent coercion has waned as a key dynamic in global trade. The modern Western self-image holds that we have replaced force with non-violent coercion, such as the capacity to initiate trade embargoes, restrain market access, or seek legal action. But to the extent that extremists or terrorist groups rely on the tacit support of a broader bloc in the population who have other aims that could be achieved by economic means, the connection remains.

### ***Coercion and Moral Neutrality***

The first modern iteration of negotiation training embraced these power dynamics through its concepts and terminology. Bargaining began with the assumption that all was an adversarial struggle for power in a zero-sum situation: what one party gained, the other lost. The goal of negotiation was simply to distribute wealth according to each party's ability to exert power over the other. Some observers credit this "distributive" or "positional" bargaining model to the labor-management arena, where the leverage of unions to strike and of management to hire or fire roughly balanced each other in a never-ending struggle (Hunt 2007).

By the 1980s a more cooperative approach emerged and took hold of the imagination. The assumption that a problem and its solution were limited, fixed and almost always financial yielded to the concept of a flexible, partially non-financial solution. Bargaining shifted from wrestling with the initial (financial) positions to understanding the (often non-financial) reasons for taking that position. Thus, "integrative" or "interest-based" bargaining expanded options for reaching resolution.

Distributive bargaining has often been called "win-lose;" while integrative bargaining has been dubbed "win-win." Yet, a closer examination suggests less dramatic differences. Although an integrative approach surely softens the outward appearance of negotiating styles, an integrative approach does not neutralize violent or non-

violent coercion. Further, one might posit that virtually all negotiations have a distributive element. Parties may pursue that element vigorously even when the rest of the negotiation appears thoroughly integrative.

Training in integrative bargaining rarely acknowledges the imbalance of power between parties. Training routinely does not encourage negotiators to question how to use power ethically. Thus, one could say that training encourages bargaining to occur in a “moral free space” (Donaldson and Dunfee 1999: 38).

### **Nature Abhors a (Moral) Vacuum**

The idea of bargaining within a wholly secular, free market zone, unfettered by external ethical or religious controls might have some appeal. After all, a long-standing theory of modernization by means of global trade has held that “[m]odernization necessarily leads to a decline of religion, both in society and in the minds of individuals.” Modernization has had greater “secularizing effects” in some locales than in others. “But it has also provoked powerful movements of counter-secularization” (Berger 1999: 2-3).

The World Bank has acknowledged this dynamic and now discourages unfettered private corporate conduct without consideration of public needs. The Bank has encouraged the inclusion of non-financial constituencies in economic plans, since “religious leaders and institutions – churches, mosques, and temples – are often the most trusted associations in developing countries.” This traditional, cultural “infrastructure” may provide the best base for “promoting sustainable development” (Thomas 2005: 15). The World Bank’s shift in philosophy at the macro level could instruct the micro level.

Commercial negotiators usually do not intend primarily to lift economies’ development. They aim simply to create self-sustaining, stable arrangements that earn a reliable return on equity. Nevertheless, business deals operate amidst the same global trends as those recognized by an emerging consensus of internationalists. Current thinking holds that any concept of “what constitutes civil society and makes it sustainable in developing countries” must integrate religion (Thomas 2005: 15).

For business deals involving emerging markets, negotiators capable of discourse that finds common ground in faith traditions will achieve greater success than negotiators trained in the first generation model, which typically excludes or ignores those cultural values.

### **From Concept to Craft**

The concept of principled negotiation fills the moral free space of the bargaining table with an agreed-upon set of norms drawn from the

hypernorms of global commerce. A central hypernorm assumes that all parties agree that “ethical behavior in economic systems and communities determine the quality and efficiency of economic transactions.” Norms that flow from this include some normally unstated norms, such as: parties will not use violence to obtain economic advantage; parties will respect property; parties will do their best to keep promises made (Donaldson and Dunfee 1999: 28).

The craft of principled negotiation vivifies the norms, making them something more than mere boundary lines that demarcate right from wrong. Ideally, by giving voice to the underlying cultural values impacting the business deal, parties identify positive factors around which to judge the appropriateness of solutions reached through problem-solving. These agreed-upon values emerge as abiding themes and overarching goals against which to measure subsequent offers and counter-offers. The shared values also offer an accepted base from which alternative proposals can emerge.

### ***Social Ceremony***

The very nature of the undertaking calls for a physical structure and dialectical formality designed to reinforce the concept that otherwise unfettered private power will be shaped by public concerns. Thus, principled negotiation around shared cultural values calls for a venue suitable for formal bargaining, as contrasted with informal discussions. This may appear of small matter to contemporary Westerners accustomed to “business casual” in dress and demeanor. However, social ceremony matters.

In most non-Western, non-Americanized regions, a casual approach to serious matters suggests an underlying lack of respect – for the individual, the community, and the culture. For many, such informality betokens a laxity in private that invites disregard of public duties. Hence, although inconvenient, adherence to non-Western traditions of formality can serve the interests of Western negotiators; in formal settings, private actors are more likely to remember that they carry obligations extending beyond that room. The community will eventually hold them to account, directly or indirectly.

Hence, negotiators may wish to reconsider the symbolic message of their venue. Does the location favor the interests of one side or another? Does the chosen building site evoke a sense of responsibility without undue pressure? Do easy chairs arranged in club room style suggest the *gravitas* of chairs around a table? What rituals of hospitality convey the desired message of mutual honor and trust? What rites that typically accompany the execution of a solemn agreement should transfer to signing this contract?

### ***Timing***

Positional negotiation treats timing as a key tactic to manipulate the adversary toward a desired result. Principled negotiation encourages parties to work outside this limited perspective. Instead, parties should consider time as a natural cycle of ebb and flow, rather than something linear, clock-bound and more in control of the negotiations than the people themselves.

### ***Identifying Stakeholders***

One of the most frustrating yet valuable quests is to identify not only the parties but the stakeholders, who typically are not present at the table. Stakeholder interests could include artisan guilds with long traditions of expertise and near-monopoly rights in the subject matter of the proposed transnational agreement. On the other end of the spectrum, modern statutes enacted through the national legislature may enunciate rights that appear at odds with local traditions. For example, the status of women and the availability of children for employment may appear easily resolvable through application of national legislation. However, the impacts of compliance ripple through family budgets and the dynamics of authority in households throughout the community. Federal legislation needs harmonization with local culture.

Quite likely, no single specified individual will step forward as spokesperson for these “collateral” interests. (Or, the person who presents themselves thusly lacks recognition by constituents as having genuine authority to speak on their behalf) (Kelly 2006). In such situations next generation training asks negotiators to engage the issue pro-actively, rather than passively observing the dynamics.

### ***Pro-actively Engaging Cultural Values***

How would a next generation negotiator engage the issue of unidentified stakeholders?

First, before coming to the bargaining table, she will have already done her homework: she researched the historical basis for current social conditions. She also studied the legal structure and examined tensions between local custom and national legislative controls. While there is neither need nor expectation for her to become an instant expert in theology, she properly comprehends “religion” in terms of its social definition. Understanding faith traditions facilitates understanding the ethical values and notions of obligation that define a community.

Second, once in negotiation she seeks from all parties as much information as they are willing to share concerning the institutions, personages or customary ways of doing business that the business

deal under consideration may affect. If initial rounds of active listening do not result in a well-rounded sense of the situation, the negotiator internally checks her background knowledge with what parties have stated (Shmueli, Warfield, and Kaufman 2009). If parties seem less than forthcoming with information, the negotiator's background knowledge can lend more directness to her otherwise open-ended questioning. The emphasis in active listening shifts slightly more towards the active; but it does not devolve into a cross-examination. Instead, proceeding in a conversational, storytelling mode, she shares relevant portions of the perspectives she has gained thus far. She expresses concern and humble confusion about whether she understands. She invites their assistance to improve her grasp of the situations they confront on a daily basis (Volpe and Cambria, *Negotiation Nimbleness*, in this volume).

Third, she will make note of stakeholder issues, and work with the parties to consider ways of obtaining their consensus – or at least defusing their opposition – before finalizing the agreement.<sup>2</sup>

### ***Establishing the Frame and Tone***

The signal features of principled negotiation based on shared cultural values that distinguish it from distributive or integrative bargaining are the frame and tone of the initial session, continued throughout subsequent rounds of negotiation. A negotiator opens the session by framing it as a setting to share broad and specific concerns affecting the decisions to be made. The negotiators will seek to understand the decisions to be made and will work to understand the substrata needs of both parties – plus their identified and unidentified constituencies/stakeholders. This can be accomplished through a number of ways, with degrees of formality appropriate to the circumstances. A series of examples follows.

### **Example One – Tribal Peacemaking Format to Address Stakeholder Dynamics**

Following the style of tribal peacemaking adapted for Oklahoma Supreme Court mediations, the negotiations open with a statement that summarizes:

- The objective goal to be achieved.
- The subjective interests involved.
- Recognition of the contributions each participant in the negotiation has already made.
- Recognition of the concerns already articulated by each party.



- Recognizing the context of the situation by reference to stakeholders both formally identified and unidentified.
- Suggesting two to three positive, overarching principles/goals (hypernorms) evidenced in the behavior of all prior to the bargaining session, but not yet stated explicitly.
- Restating and reframing the opening statements of each party around the overarching principles articulated.
- Using reframing to further focus opening statements to highlight core values not already enunciated.
- Summarizing opening statements in ways that reveal the overlap in values that parties may not have previously recognized. This is often achieved by using language not already embraced by the dialectic of either side; or, if the negotiator has sufficient cultural knowledge, using metaphors or proverbs from each side to explain the same principle(s).

The style of presentation in this next generation model is more narrative than the typical first generation training. The opening might even begin with a traditional folk tale echoing the principles used to guide decision-making. Depending upon the setting and comfort level of the parties, there might be an invocation to the deities, ancestors or a prayer. Or, the session might open with a simple request for compassionate listening coupled with thoughtful consideration of the profound task at hand.

The basic steps in framing a tribal peacemaking, as outlined above, transfer readily to a commercial setting. However, the spiritual orientation described immediately above may be far less suitable unless religious leaders or institutions in the host community play the supportive role envisioned by the World Bank.

### **Example Two – Translating Between Religious Values and Norms of Corporate Culture**

This approach might present more challenges than Example One, because the negotiator must hold fast to the core principle: there is more that unites people than divides them. In the rhetoric of globalization specialists, we need not frame negotiations involving cultural values as the “clash of civilizations” augured by Samuel Huntington (Huntington 1996). Global trade and modernization need not be construed as synonymous with Westernization.

The area of greatest volatility involves harmonizing commercial trade regimes with the social pressures from more fundamentalist interpretations of Islam in developing nations. (To some degree, this issue also exists among Muslim populations within Europe). A first generation approach to negotiation which ignores or presumes away

cultural norms founded in religious tradition neglects opportunities to develop and communicate a business arrangement that represents a convergence, not a clash, of values (Nisbett 2003).

### *Convergence of Ethical Norms for Trade*

Engagement at this level of discourse requires Western negotiators to probe their personal inculcations concerning Islamic cultures. Whether through direct, formal instruction or through indirect, informal in-group conversations, or through the Christian orientation that permeates American institutions – many American-educated negotiators will inevitably base their unexamined understanding of Islam more on historicism than history.

A next generation training model need not attempt to undo a lifetime's learning in one workshop. The training need not deconstruct in detail the implications of negotiating based on *Jihad vs. McWorld* (Barber 1996). An appropriate model need only: (1) acknowledge squarely the issue of unconscious bias; (2) recognize that bias encourages a dialectic of "our" values versus "their" values; and (3) show Western-oriented negotiators how to identify common ground and speak in terms of shared values about doing business.

Islamic tradition offers multiple, readily accessible entry points to a values-based commercial negotiation. Because the faith germinated in the soil of multicultural trade along extended caravan routes, the metaphors of trade permeate Islamic teachings on good character (Cragg 1994). A Western negotiator who can speak in the metaphors by which non-Western parties live can establish lines of communication that significantly enhance results.

The *hadith* compiles volumes of pronouncements by the Prophet Mohammed that, among other things, elaborate upon the ethics of everyday living. The Shi'a tradition also includes sayings transmitted by revered Imams. The *hadith* complements and supplements the holy *Qur'an*. Indeed, in many Islamic cultures proverbs and parables from the *hadith* remain well known reference points, among the observant and non-observant alike.

Several hypernorms of modern business ethics find expression in these sacred texts. Consider the usually unspoken principle of ethical commerce that "all humans are constrained by 'bounded moral rationality,'" which, in turn is limited by the individual's "ability to discover and process facts necessary to carry out their ethical duty." One *hadith* articulates this somewhat strained concept with pithy clarity:

The seller and buyer have the right to keep or return goods as long as they have not parted or till they part; and if both

the parties spoke the truth and described the defects and qualities (of the goods), then they would be blessed in their transaction, and if they told lies or hid something, then the blessings of their transaction would be lost (Bukhari: Volume 3, Book 34, Number 293).

A modern iteration of the dynamics of ethical trade might posit: “The nature of ethical behavior in economic systems and communities helps determine the quality and efficiency of economic interactions. Higher-quality and more efficient economic interactions are preferable to lower-quality and less efficient interactions” (Donaldson and Dunfee 1999: 27-28). Again, a next generation negotiator could readily express this through an honored *hadith*: “When you come to a land where they give full measure and full weight, stay there. When you come to a land where they shorten the measure and weight, then do not stay there very long” (Malik: Book 31, Number 31.45.100).

### ***Using Values to Reframe, Not Realign***

A next generation negotiator seeks to include faith-based values without forcing agreement on religion itself. The goal is to reveal alignment of interests that already exist, not to manipulate a realignment of deeply held convictions. Where can parties find that common ground?

Presumably businesspersons from all backgrounds seek profit and desire respect. All honest businesspersons can find such respect in Islamic traditions. The profits earned by “traders and industrialists” are recognized as bringing prosperity to all classes. Businesspersons provide “useful articles...from distant and far-flung areas throughout the land and sea, plains or mountains, from where people cannot come and to where they do not dare go” (Balaghah: Document of Instruction 53).

While society owes businesspersons respect, businesspersons also owe duties to society. Those engaged in commerce have an obligation to be honest in their dealings. Fairness (what we would call today “transparency”) in commerce is a sacred and rather sophisticated obligation, extending even to an ancient version of today’s commodities futures markets. One’s reputation for even-handedness is vital, not only for rulers but for other persons in positions of authority.

As in Example One, a negotiator could take this basic knowledge to a higher level by employing fitting proverbs as part of reframing. Consider:

- “No trickery” (Malik: Book 31, Number 31.45.99);
- “A small action which is continued with regularity is more beneficial than a large one performed with disgust” (Balaghah: 278); and
- The way to high rank: “Truthful speech, fulfilling the trust, and leaving what does not concern me” (Malik: Book 56, Number 56.7.17).

### Example Three – Formal Adoption of Ethical Principles for Global Trade: The Global Sullivan Principles (“GSP”)

Examples One and Two described indirect methods by which a negotiator can elicit from parties core values that fill the moral free space of the bargaining table. At the outset parties and stakeholders might not intend to concur on the principles that will guide problem-solving. In these prior examples, the negotiator seeks to develop subtly a modicum of consensus about aspirational goals, whether such was the parties’ original intention or not.

Our final example does not rely upon subtlety. It is direct, intentional. It activates commitments previously made by the parties, or leading members of the industry with which they identify. Example Three brings to the bargaining table statements of corporate social responsibility endorsed by companies with major manufacturing, supply and sales interests in developing countries.

#### *Compacts on Ethical Conduct*

Why have hundreds of transnational corporations become signatories to such statements? Perhaps they sign because a reputation for conducting business in a socially responsible manner can impact share value.<sup>3</sup> Within the organization, such statements help standardize expectations among the companies’ own management which cross borders and cultural norms throughout the world.

For parties engaged in commercial negotiations, such principles bring the immediate benefit of supplying a values reference point already acknowledged among peers in the industry. Moreover, these principles usually have taken into consideration the needs of stakeholders and government. This reduces the perceived risks undertaken by the parties. They do not act *ad hoc*, but in accordance with standards reached through deliberative processes.

In some ways, compacts that guide ethical conduct might be construed as the modern iteration of pre-modern guild systems. Current standards of conduct lack the specificity of olden days; but they cover a much broader expanse, interweaving more sophisticated,

interconnected systems of law and trade. Such compacts include commitments to voluntary reporting and self-enforcement, coupled with varying levels of outside monitoring. They create new common ground.

### *Principles as Peer Values*

The Sullivan Principles set the paradigm in the late 1970s. Authored and promoted by the Rev. Leon Sullivan when serving as a member of the board of directors for General Motors, the Sullivan Principles opened the way for racial equality in South African workplaces during the days of apartheid. Initial signatories included a dozen Fortune 100 companies. By 1984 this number had grown to more than one hundred major companies engaged in global commerce.

Today's Global Sullivan Principles (GSP) have inspired other companies to develop similar statements of expectations. These statements of conduct support employees, suppliers, and contractors when pressured to act in ways contrary to the company's stated expectations. With regard to the consumer, such statements of corporate values can prove valuable when brand image and fair trade intersect.

The simplicity and clarity of the GSP provide a negotiator with a well-honed, already accepted statement of shared values within the trading system. Rather than starting from local customs, the GSP invokes emerging hypernorms of international corporate culture. In negotiations this can provide a comprehensible rationale, or leverage when a party takes a position that challenges local custom. Very helpful in this particular regard are three principles, whereby companies pledge to:

- Support the human rights of their employees, the communities and the companies with which they do business.
- Promote equal opportunity for all workers in a safe environment, free from exploitation or abuse.
- Promote fair competition, including neither paying nor accepting bribes.

If a business deal involves one or more companies which has endorsed the GSP (or other similar statement of values for the conduct of international trade) the negotiation can begin with a reading of the principles and ratification by the parties. Even if the parties are not already signatories, parties can choose to adopt a widely accepted statement of appropriate corporate conduct in lieu of crafting their own. Either way, when local customs undercut emerging norms for international trade, statements of conduct such as the GSP indicate trends worthy of respect.

## Conclusion

The next generation of international commercial negotiations will routinely involve private corporations that – in developing countries – are called upon to consider public concerns. Because negotiations typically occur, literally, behind closed doors, the process lacks transparency. Thus it remains subject to criticisms about disregard of fairness, equity, and ethics. Neither distributive nor integrative bargaining squarely addresses the issue.

As transnational corporations extend their presence across cultures worldwide, corporations, governments and local communities are challenged to find ways to demonstrate respect for tradition in the face of modernization. The approach to negotiation suggested here, as an enhancement to the next generation of training, provides an uncomplicated method to balance business customs, faith traditions and emerging standards for global trade.

## Notes

<sup>1</sup> This approach originated in the Oklahoma Supreme Court's need to resolve issues of cultural identity in child permanency placement mediations where European-American families sought to adopt a Native American child whose parental rights had been terminated by the State. This inclusive model of tribal peacemaking did not rely upon a single tribal tradition; instead, it identified core principles, or hypernorms, common to virtually any Native tradition in the state. This model proved to be a sturdy "export" from Indian Country, and evolved through several iterations to work successfully in neighborhood, family and church disputes not involving Native American tribes. Adaptations of this approach have continued to evolve in Africa.

<sup>2</sup> This may appear to compromise confidentiality; however, as a practical matter many, if not most, persons familiar with community negotiations understand that genuine confidentiality is ephemeral. To be more authentic, negotiators should seek to develop consensus about what will be communicated to others outside the formal structure, rather than wringing from parties futile promises that they will forgo any disclosures whatsoever (Honeyman 1999).

<sup>3</sup> An analysis of share performance of 416 Fortune 500 companies during the disruptions of the 1999 World Trade Organization (WTO) meeting showed that the portfolio of firms lacking a reputation for social responsibility declined 2.35 percent in value, resulting in a \$378 million loss of shareholder value for the average firm in the sample. Even in industries that generally lacked a reputation for social responsibility, those specific firms that cultivated a reputation for social responsibility suffered smaller declines than others, and the declines were not statistically significant. In the portfolio of "irresponsible" firms in "irresponsible" industries, portfolio

value declined by 3 percent, resulting in an average loss of \$418 million per firm (Schnietz and Epstein 2004).

## References

- Amaeshi, K. 2003. Stakeholder framework analysis of the meaning and perception of corporate social responsibility: A north-south comparison. *World Bank Institute Research Studies*. Available at [http://info.worldbank.org/etools/docs/library/57481/north-south\\_finalist.pdf](http://info.worldbank.org/etools/docs/library/57481/north-south_finalist.pdf) (last accessed Mar. 29, 2009).
- Barber, B. R. 1996. *Jihad vs. McWorld: How globalism and tribalism are reshaping the world*. New York: Ballantine Books.
- Berger, P. L. 1999. *The desecularization of the world: Resurgent religion and world politics*. Washington, DC: Eerdmans.
- Cragg, K. 1994. *The event of the Qur'an: Islam in its scripture*. Oxford: Oneworld.
- Donaldson, T. and T. W. Dunfee. 1999. *Ties that bind: A social contracts approach to business ethics*. Boston: Harvard Business School Press.
- Global Sullivan Principles, [www.thesullivanfoundation.org/gsp/principles](http://www.thesullivanfoundation.org/gsp/principles) (last accessed Mar. 30, 2009).
- Honeyman, C. 1999. Confidential, more or less. *American Bar Association Dispute Resolution Magazine* (12-13). Available at <http://convenor.com/madison/confid.htm> (last accessed Mar. 29, 2009).
- Hunt, C. J. 2007. Strategies and behaviors utilized in labor management negotiations. *Appalachian Journal of Law* 6: 263-286.
- Huntington, S. P. 1996. *The clash of civilizations and the remaking of world order*. New York: Simon and Schuster.
- Kelly, L. 2006. Indigenous experiences in negotiation. In *The negotiator's fieldbook: The desk reference for the experienced negotiator*, edited by A. K. Schneider and C. Honeyman. Washington, DC: American Bar Association.
- Nahjal Al-Balaghah, Selections from the writings of Amir al-mu'minin Ali ibn Abi Talib. Sayings and teachings of Nahjal Al-Balaghah. The Dar al-Hadith Cultural Institute. Available at <http://www.hadith.net/english/index.htm> (last accessed Mar. 29, 2009).
- Nisbett, R. E. 2003. *The geography of thought: How Asians and Westerners think differently...and why*. New York: The Free Press.
- Schnietz, K. E. and M. Epstein. 2004. Does corporate social responsibility pay off?: Evidence from the failed 1999 WTO meeting in Seattle. *Graziado Business Report* (Pepperdine University) 7(2). Available at <http://gbr.pepperdine.edu/042/responsibility.html> (last accessed Mar. 29, 2009).
- Shmueli, D., W. Warfield, and S. Kaufman. 2009. Enhancing community leadership negotiation skills to build civic capacity. *Negotiation Journal* 25(2): 249-266.
- Stiglitz, J. E. 2003. *Globalization and its discontents*. New York: W.W. Norton.

- Thomas, S. M. 2005. *The global resurgence of religion and the transformation of international relations: The struggle for the soul of the twenty-first century*. New York: Palgrave Macmillan.
- Translation of Sahih Bukhari and Translation of Malik's Mulwatta. University of Southern California, Center for Muslim-Jewish Engagement. Available at <http://www.usc.edu/schools/college/crcc/engagement/resources/texts/muslim/hadith> (last accessed Mar. 29, 2009).
- Yu, P. K. 2002. Toward a nonzero-sum approach to resolving global intellectual property disputes: What we can learn from mediators, business strategists, and international relations theorists. *University of Cincinnati Law Review* 70(2): 569-650.