

January 2008

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## Recommended Citation

John Wade. (2008) "Defining “success” in negotiation and other dispute resolution training" , .

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# Defining “Success” in Negotiation and Other Dispute Resolution Training

By John Wade

Once upon a time in the far off kingdom of Learningland, three negotiation courses were held during the same week in the capital city Rarelyfail.

**Course A** was held in the Hilton Hotel, with delicious food and three speakers. Two of the speakers were famous practitioner negotiators who regularly appeared in the popular media. Their fields of expertise were international trade with China, and hostage rescue. The third was an academic who writes popular books and who teaches on occasion at a high status US university.

The three told gripping and humorous stories for two days with many movie clips and power point diagrams. Six hundred people watched and laughed for two days, ate delicious food at the Hilton and met a few new and old friends. They each paid US\$4000 to attend.

**Course B** was held across the city in a large conference room of the large law firm Smith, Hughes and Swazenburg. This course was mandatory for all mid- level lawyers in the firm and these people flew from various cities to attend (some rather reluctantly). Ten customers of the firm were also invited to send a representative each.

Thirty one people finally attended. Twelve others dropped out at the last minute allegedly due to crises in their offices. The course consisted of short demonstrations and multiple role plays with instant feedback under the supervision of law partners and professional trainers.

All of the role plays were based on cases being handled by the law firm and its clients. The role plays tested repetitively preparation of goals, and a range of responses to an emotional party, a hard bargainer, and a disorganised opponent. The role play also drilled the participants in a 12 step negotiation process. Allegedly, the instructors expressly avoided teaching “theory” and concentrated on modelling a range of skills.

**Course C** was also held over two days at a prominent local university. Invitations were sent to other universities, police, law firms, refugee agencies, and a number of international businesses. The cost was \$500 US. Fifty three people attended. Papers were summarised by presenters talking. Panel discussions were held on various topics including the sociology and psychology of negotiation; diagnostic criteria for various types of negotiation, or not; and varying negotiation practices allegedly used in different types of transactions, conflicts and across different cultures. Eight articles were eventually published from those presented at the conference.

## EXERCISE

1. (As with a negotiation), write out a list of the possible/probable visible and shadow “participants” in each of these three types of courses. Then interview your neighbour.

Course A (the Hilton 600) “participants”?-----  
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Course B (law firm skills) “participants”?-----  
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Course C (University knowledge) “participants”?-----  
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- (As with negotiation), write out how each participant would probably describe “success” during the planning of each respective course (the “aspirational goals”). If you have time, try to rank each participants’ goals by number.

Then interview your neighbour.

<b>Course A (“the Hilton 600”) Aspirational Goals</b>			
Organiser	Rank		Rank
1		4	
2		5	
3		6	
Teacher			
1		4	
2		5	
3		6	
Student			
1		4	
2		5	
3		6	

<b>Course B (“Law firm skills”) Aspirational Goals</b>			
Organiser	Rank		Rank
1		4	
2		5	

3		6	
Teacher			
1		4	
2		5	
3		6	
Student			
1		4	
2		5	
3		6	

<b>Course C (University “knowledge”) Aspirational Goals</b>			
Organiser	Rank		Rank
1		4	
2		5	
3		6	
Teacher			
1		4	
2		5	
3		6	
Student			
1		4	
2		5	
3		6	

3. Write out extra goals, or circle pre-existing goals, from your lists in 2 above, those personal goals which each participant would probably describe as having been *actually achieved* say, three months after the course.

Interview your neighbour.

**Personal goals actually achieved “later”**

Course A; 3 months later?

Organiser? -----

Teacher? -----

Student? -----

Course B; 3 months later?

Organiser? -----

Teacher? -----

Student? -----

Course C; 3 months later?

Organiser? -----

Teacher? -----

Student? -----

4. In a group of 3 discuss your positive and negative experiences of these 3 types of negotiation and dispute resolution courses. **DO NOT ATTEMPT THIS QUESTION,** until you have completed exercises 1-3!

**Success or Failure?**

Are these three types of courses, or hybrids thereof, “successes” or “failures”? Based on what criteria? With what supporting evidence? As interpreted by whom?

It is easy to ensure success. How? Just lower expectations (as in negotiations). For example, lower expectations to the goals of---first, pay the bills for the course, and secondly, ensure that the majority of participants “feel good” for at least two hours after the course is over.

However, many participants in training courses are not willing to aim so low and at so few goals----even though, in negotiation speak, they may have a similar minimalist fallback set of

goals if the course goes to hell. Most participants, teachers and organisers have a longer and grander list of express or sub-conscious goals.

### **Bloom’s Taxonomy**

Many forests have been destroyed in order to classify and rank educational goals. One classic work worthy of frequent re-visits is popularly known as “Bloom’s Taxonomy”.<sup>1</sup>

Bloom has two broad categories of educational objectives – namely knowledge (“The *cognitive* domain”), and attitudinal (“the *affective* domain”). These categories are broken into a list of “basic”, climbing to very sophisticated objectives.

The following chart briefly summarises Bloom’s ladder of goals with an illustration of how each could apply to a negotiation (or conflict management) course

(Initially on the ladder this “knowledge” is a form of <i>memorisation</i> ) <b>Knowledge Objectives</b>	<b>Negotiation Course</b>
1. <i>Knowledge of Specific Terminology</i>	1. eg Define “negotiation”, “creating doubt”; “goals”; “power”?
2. <i>Knowledge of Specific Facts</i>	2. eg recall classic negotiation articles by author and name; recall major features of particular cultures.
3. <i>Knowledge of Ways and Means of Dealing with Specifics – Conventions</i>	3. eg how often to make eye contact; how direct to be in requests; how long before decisions should be made etc.
4. <i>Knowledge of Trends and Sequences</i>	4. eg understanding movements away from aggression (and back again); from glorification of negotiation towards diagnostic application of negotiation; from distinguishing positional and interest based negotiation for marketing purposes, and then back to synthesis etc.
5. <i>Knowledge of Classifications</i>	5. eg. Statistical, systematic and storytelling “truths” about negotiation; goals and “risks”; settlement and reconciliation; procedural,

<sup>1</sup> See D.R. Krathwohl, B.S. Bloom and B.B. Masia, *Taxonomy of Educational Objectives: The Classification of Educational Goals* (1956); rediscovered for law schools by A. Petter, “A Closet Within the House: Learning Objectives and the law School Curriculum” in N. Gold, (ed) *Essays on Legal Education* (1982). See fourfold division of “goals” in A.C. Ornstein and F.P. Hunkins *Curriculum* (New Jersey: Prentice Hall, 1988).

	emotional and substantive goals during negotiation; hawks, doves and moderates.
6. <i>Knowledge of Criteria</i>	6. eg knowledge of the multiple possible measurements of “success” in negotiation – a signed document; a respectful conversation; an insight into motive; an agreement which is performed; a willingness to meet again etc.
7. <i>Knowledge of Methodology</i>	7. eg a head-knowledge of how to survey the varying language and methods and outcomes of insurance negotiations; or personal injury negotiations in a particular geographical area.
8. <i>Knowledge of Principles and Generalizations</i>	8. eg knowledge that particular observed patterns of behaviour in negotiations have names and research attached to them ... eg “reactive devaluation”; “creating doubt”; starting “high soft”; “post-settlement regrets”.
9. <i>Knowledge of Theories and Structures</i>  “Knowledge” moves up the ladder to another level – “Intellectual Abilities and Skills” – the ability to <i>apply</i> memorised or given information to achieve a purpose.	9. eg that most negotiations have 12 or 10 process “steps” – though not necessarily in linear order; that “creating doubt” has 19 common forms, associated sentences and body language etc.
10. <i>Comprehension by Translation</i>	10 eg “negotiation requires managing everyone’s expectations”; “in order to understand a person’s goals, going slowly is really going fast”; “when you have an oral agreement, there is still another third to be agreed upon while drafting”, “is this spending good money after bad?” etc.
11. <i>Comprehension by Interpretation</i>	11. eg the ability to summarise by <i>reframing</i> ; or by a pithy list; or by stating a problem-solving <i>question</i> beginning with “how” or “what”.
12. <i>Comprehension by Extrapolation</i>	12. “It sounds as though the last year has been one disappointment after another”; “so

	<p>you need a fast solution, almost any solution, to control bad publicity?"; "If you can find accommodation for your machinery, you could keep your employees productive?" etc.</p>
<p>13. <i>Application</i> (The use of abstractions in particular situations)</p>	<p>13. eg "If you begin with an insult offer like \$6 million, they are likely to either leave, or make you an equally insulting counter offer";</p> <p>"You appear to be impatient; given the initial offers, we will be here until at least 8pm"; "If she expected such a high figure, she will not be able to adjust to the market rate without either a persuasive friend, or several months of grieving time".</p>
<p>14. <i>Analysis of Elements</i> (The breakdown of a communication into its constituent elements)</p>	<p>14. "I know that is what he said, but what did he really mean?"</p> <p>"She needs to find a solution which avoids floodgate back at head office"</p> <p>"Our offers are currently far apart, but she does want to work with our company in the future."</p>
<p>15. <i>Analysis of Relationships</i> (The connections between parts of a communication)</p>	<p>"We thought they wanted a quick solution; but now they are considering preparing yet another expert's report"; "If Joe is the decision-maker, why is Jill doing all the talking?" "It appears that Michael and Jane are using the good-cop bad-cop routine on us." Etc</p>
<p>16. <i>Analysis of Organisational Principles</i> (The structure which holds a communication together)</p>	<p>"In France, it is important to begin with general principles, before discussing details"; "Always begin with a concrete client story when talking to lawyers";</p> <p>"They are predicting doomsday, in an attempt to scare us";</p> <p>"They have arrived with an array of be-suited experts who spout allegedly learned opinions – but only based on the limited information given to them" etc.</p>

<p>17. <i>Synthesis – Production of a Unique Communication</i></p>	<p>17. “Joe, could you tell that story again about what happened at the factory?”</p> <p>“We will draw the map of the farm on the board and encourage each of them to add buildings and new boundaries in a different colour”; “I will summarise the report into a one-page coloured graph and distribute it early.”</p>
<p>18. <i>Synthesis – Production of a Plan</i></p>	<p>18. eg “I would like to develop 3 alternative ways to approach the meeting based on our current 3 different hypothesis”; “If Dave does not respond, will you take coffee to Susan during the breaks and slowly share our written risk analysis?” etc.</p>
<p>19. <i>Synthesis – Derivation of a Set of Abstract Generalisations</i></p>	<p>19. eg “From the information gathered so far, it appears likely he will become increasingly disinterested with the figures, ask for an adjournment, and then renege on any agreement reached. It may be that this pattern is caused by his illness, rather than his lifelong desire to control”. “If it is the latter, how can these patterns be altered?” etc.</p>
<p>20. <i>Evaluation – Judgments in Terms of Internal Evidence</i></p>	<p>20. eg “The land valuations vary to favour whoever paid that valuer”; “They say that is their best offer, but they have said that four times previously”; “He says that all the income has been spent on farm improvements; so where are the receipts and the increased valuations?”</p>
<p>21. <i>Judgments in Terms of External Criteria</i></p>	<p>21. eg “The case authorities they refer to can be interpreted in at least 3 different ways”; “Parental alienation syndrome has two major critiques...”; “There are a number of possible causes to the loss of profits apart from the late delivery” etc.</p>

## **The Affective or Attitudinal Objectives**

Bloom's taxonomy goes beyond 21 categories of "knowledge" as summarised in the chart above. He also suggests a 13 step ladder or taxonomy of educational objectives relating to the "affective domain" or attitudes. These can also be set out in a chart with matching example goals from a negotiation course for each of the thirteen levels of "affect", attitude and emotion.

## **Diverse and Conflicting Goals**

There are many recurrent goals to negotiation (or other conflict management) courses which range up and down Bloom's famous taxonomy of possible goals. They are held by participants (students), teachers, and organisers. For example:

**Student** goals include: a day out of the office; good food; a restful experience; comfortable language; a certificate of attendance; opportunity to meet influential people; low cost; avoidance of packaged educational goals and methods; expression of long term resentment towards "foreign" products; looking for ideas on how to start a local training business; an additional entry to a curriculum vitae; avoidance of any personal change; making a profit; responding to a crisis within an organisation (eg critical and publicised feedback from clients); attending a course conducted by a "status" institution (regardless of content or learning); attendance at a course with a guru presenter (regardless of content or learning); fun and laughter; some memorable stories to tell; cramming sufficient momentary knowledge in order to pass an exam, and no more; avoidance of loss of face in front of self, peers or teachers.

**Teachers'** goals are also diverse and may include consciously or sub-consciously:

to be paid; to receive positive feedback; to be rehired; to market books and DVDs; to have a holiday; to avoid changing familiar teaching practices; to meet interesting people; to gain contacts for future work; to silence troublemakers; to minimise preparation time; to use last year's notes, DVDs, power points and role plays; to gain status back at head office; to have fun; to be entertaining; to dazzle others with brilliance; to create doubt in the beliefs of over-confident students.

**Organisers'** goals overlap with those mentioned above, and also include:

to make a profit; to have satisfied customers who will send friends to the next course; to make attending employees more competent; to satisfy mandatory professional development rules.

Where teacher and student goals are different (which they usually are), the negotiation course will become an ongoing negotiation itself. Where competing goals, (methods or feedback) remain unresolved, the course will usually be a disappointment. Conversely, teachers often avoid conflict by ignoring just how little is learned, except at the shallow end of the learning

ecosystem (eg “we heard some interesting stories”). Teachers and organisers of courses often have deep aspirational goals (and delusions), while students have culturally acceptable shallow goals, both in aspiration and reality. The hidden curriculum will always overcome the formal curriculum, despite the anguish and delusions of the organisers and teachers.

Of course, goals of teachers and certain participants may substantially overlap. Also, they sometimes move up Bloom’s taxonomy of learning, or towards Bigg’s “deep learning”, both in aspiration and reality.

Higher, “deep” and enduring goals which aspirationally might be held by many people involved in a course include:

Connecting new learning to what is already known; promoting curiosity; tolerating ambiguity; being surprised by, and developing respect for, the attitudes and behaviour of colleagues (the writer has seen this “high” goal achieved in many courses where a succession of a colleagues role play particular responses before the whole group); gaining practised and enduring competence in at least one new skill; memorising and being able to debate the ten repetitive themes in the field.

How often are these “deep” goals achieved?

### **The Learning Ecosystem**

Teachers, researchers and students often comment that the “system” conspires against students achieving any “deep” learning or “real” understanding. “[T]he longer most undergraduate students (not all ...) stay in most tertiary institutions, the less deep and the more surface oriented they tend to become, and the more their understanding is assessment related. The tendency is almost universal.”<sup>2</sup>

For example, comments from students:

- “I have two part-time jobs; I just want to get through”
- “There is so much in the course; I have narrowed it down to what is in the exams”
- “Most short courses consist of a lecturer talking and showing power point slides”
- “I am really looking forward to a rest while at this course”
- “I am not going to make a fool of myself in a role play”
- “I have a lot of questions, but I am not going to interrupt the teacher”

And from teachers:

- “These modern students just want to be spoon-fed”

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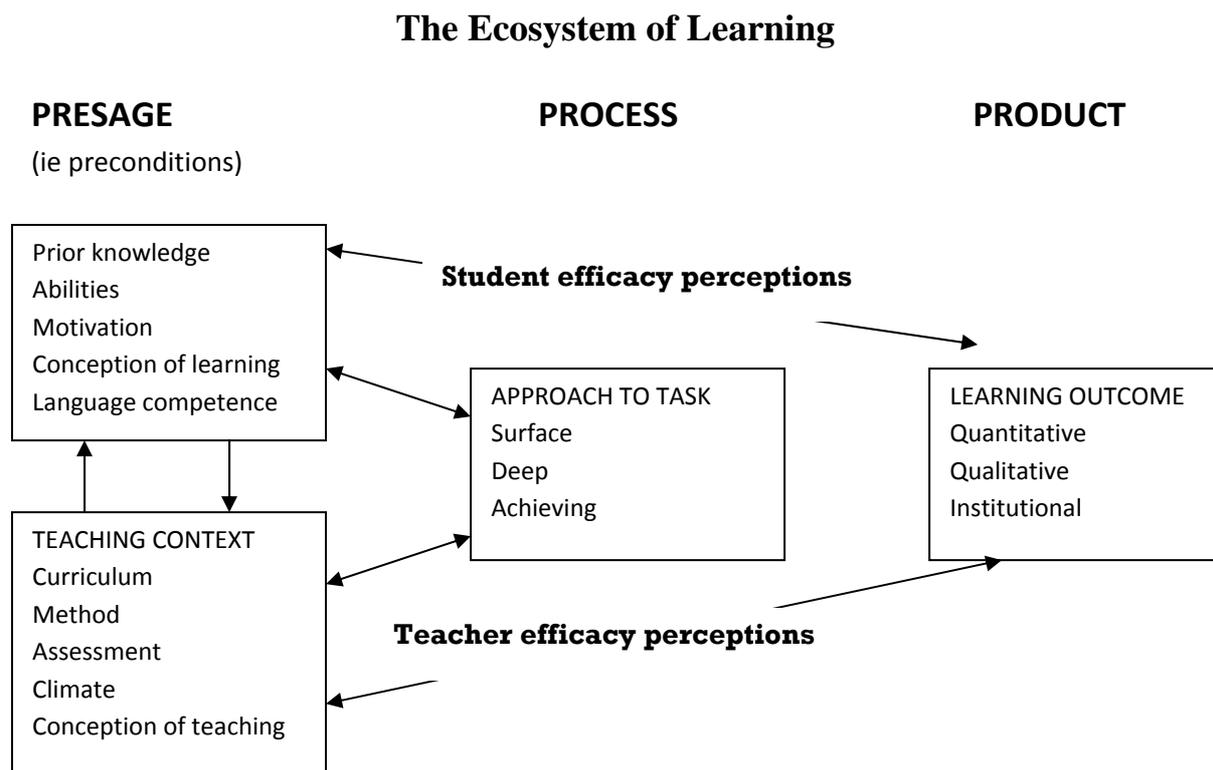
<sup>2</sup> John Biggs, *Teaching for Quality Learning at University* (1999) pp 34-35.

- “I want to use the materials which are tried and tested”
- “I find most of the students do not want to be stretched. They just want clear power-points”
- “It is essential that my students fall along a bell-curve of marks”
- “Chinese students will not participate; they just want to sit and listen”
- “The law/medical/architectural profession requires that we cover all this material” etc.

These stereotypical quotes are microcosms in the teaching/learning environment. Biggs has helpfully labelled this as the “teaching/learning ecosystem”.<sup>3</sup>

These quotes are indicative of the many crocodiles and currents in every educational ecosystem which will usually devour higher goals, and leave emaciated survivors. Each ripple in the pond has effects through “the ecosystem”.

Biggs has used a diagram to summarise the complex pond of ripples, causes and effects in the ecosystem of learning as follows:



<sup>3</sup> J. Biggs, *Teaching for Quality Learning at University*, p. 18 ( Buckingham: SRHE, 1999); J. Biggs, “ Teaching for Better Learning” (1990-91) 2 *Legal Educ Rev* 133; P. Ramsden, *Learning to Teach in Higher Education* (London: Routledge, 1992)

To repeat, higher or deeper learning goals will drown in most learning ecosystems. The “system” is more powerful than the motivation and behaviour of even Mr Chips, or other superstar teachers.

### **At Least Do No Harm**

As discussed above, teachers are often astounded by how little students learn in any course. “But we covered that in class”, is the plaintiff cry of the teacher when a student demonstrates profound ignorance on a particular topic. Yet the message sent is usually not received. Or, if received, the message sticks only for the blink of an eye, or until assessment is over, whichever comes sooner. In an era of data deluge, these truths may be even stronger.

If (as in negotiation), a pattern of limited (learning) success is more common than a pattern of substantial (learning) success, what are the options for a teacher/planner/organiser/ goal - setter in a negotiation course?

**First**, aim high with a shotgun and hope that a higher and larger range of goals are achieved by a few “motivated” students. For example, include in the course, learning modules on language patterns, ethics, law, negotiation process, psychology, culture, skills, standard hurdles (ie “expand the dragon of coverage”).

**Secondly**, try to change the learning ecosystem (no easy task) so that “higher” goals are more readily achievable by more students. For example, change the teacher, change the students, change the assessment.

**Thirdly**, lower expectations and work hard to achieve at least certain minor goals for the majority of students; and importantly, to ensure that no damage or harm is done. For example, serve good food, provide comfortable seating, tell interesting stories, hand out neat materials, start and finish at culturally acceptable times; and conversely do not bore, and ensure that most students exit with the comment “ I did not learn much, but at least it was fun and interesting” (“edutainment”).

**Fourthly**, test what each student already knows (X). Then add items to the curriculum and engage in individual tuition to move each student to his or her X plus one (not X plus seven). For example, send out pre-course written tests to determine existing knowledge; send out pre-course questionnaires asking “what topic or skill from the following list would you like to learn about?” Or start the course with a demonstration and ask, “What one piece of this complex process would you like to practise?”; or halfway through the course pause to redirect----“I have learned a number of things from you , and have been astounded at your depth of knowledge and practised skill in the following areas----. However my perception is that there are gaps in these four areas---do you agree? We will break into four groups and you choose your preference to practise A, B, C, or D.”

## **Conclusion**

Attempting to describe aspirational and realistic goals in any (negotiation) course, and for any individuals in such courses, is a humbling and often frustrating experience. What might be learned, by each individual, by what methods, in what order, in what environments, with what feedback, for how long will learning last, and how can any alleged achievements be measured?

Nevertheless, this is a worthwhile ongoing discussion between organisers, teachers and students---before, during and after a course. Such ongoing and painful attempts to describe realistic goals provide ripples in the ecosystem of learning towards Biggs' "deeper" and Bloom's "higher" goals.