Ethics in Negotiation

Objectives

1. Understand whether there are commonly accepted ethical standards that apply to negotiations.
2. Explore the various factors that determine how ethics affect negotiation processes.
3. Consider the different types of ethically problematic tactics and how they are perceived.
4. Gain an understanding of how marginally ethical tactics will be received by others in a negotiation and how to detect others’ use of deceptive tactics.

In this chapter, we explore the question of whether there are, or should be, accepted ethical standards for behavior in negotiations. This topic has received increased attention from researchers in recent years. It is our view that fundamental questions of ethical conduct arise in every negotiation. The effective negotiator must recognize when the questions are relevant and what factors must be considered to answer them. We want to be clear that it is not our intention to advocate a specific ethical position for all negotiators or for the conduct of all negotiations. Many treatises on business ethics take a strongly prescriptive or normative position, advocating what a person should or should not do. Instead, our aim in this chapter is to describe the ethical issues that arise in negotiations. We identify the major ethical dimensions raised in negotiations, describe how people tend to think about these ethical choices, and provide a framework for making informed ethical decisions. Along the way, we highlight research that has yielded worthwhile findings in this area.

But before we dive head first into all of that, let’s set the stage with a few hypothetical dilemmas.

A Sampling of Ethical Quandaries

Consider the following situations:

1. You are trying to sell your stereo to raise money for an upcoming trip overseas. The stereo works great, and an audiophile friend tells you that if he were in the market for stereo equipment (which he isn’t), he’d give you $500 for it. A few days later the first potential buyer comes to see the stereo. The buyer looks it over and asks a few questions
about how it works. You assure the buyer that the stereo works well. When asked how
much, you tell the buyer that you have already had an offer for $500. The buyer buys the
stereo for $550.

Is it ethical to have said what you said about having another offer?

2. You are an entrepreneur interested in acquiring a business that is currently owned by
a competitor. The competitor, however, has not shown any interest in either selling his
business or merging with your company. To gain inside knowledge of his firm, you hired
a consultant you know to call contacts in your competitor’s business and ask if the com-
pany is having any serious problems that might threaten its viability. If there are such
problems, you might be able to use the information to either hire away the company’s em-
ployees or get the competitor to sell.

Is this an ethical course of action? Would you be likely to do it if you were the entrepreneur?

3. You are a vice president of human resources, negotiating with a union representative
for a new labor contract. The union refuses to sign a new contract unless the company
agrees to raise the number of paid holidays from six to seven. Management estimates it
will cost approximately $220,000 for each paid holiday, and argues that the company
cannot afford to meet the demand. However, you know that, in reality, money is not the
issue—the company simply doesn’t think the union’s demand is justified. To convince
the union leaders that they should withdraw their demand, you have been considering
these alternatives: (a) tell the union that the company simply can’t afford it, without fur-
ther explanation; (b) prepare erroneous financial statements that show that it will cost
about $300,000 per paid holiday, which you simply can’t afford; and (c) offer union
leaders an all-expenses-paid “working” trip to a Florida resort if they will simply drop
the demand.

Do any of the strategies raise ethical concerns? Which ones? Why?

4. You are about to graduate from the MBA program of a leading university. You spe-
cialized in management information systems (MIS) and will start a job with a company
that commercially develops Web pages. You own a personal computer that is a couple of
years old. You have decided to sell it and buy new equipment later after you see what
kinds of projects your employer has you working on. So you post a flyer on campus bul-
letin boards about the computer for sale. You have decided not to tell prospective buyers
that your hard drive acts like it is about to fail and that the computer occasionally crashes
without warning.

Is this ethical? Would you be likely to do this if you were this particular student?

5. You buy a new pair of shoes on sale. The printed receipt states very clearly that the
shoes are not returnable. After you get them home, you wear the shoes around the house
for a day and decide that they just don’t fit you correctly. So you take the shoes back to
the store. The clerk points to the message on the receipt; but you don’t let that deter you.
You start to yell angrily about the store’s poor quality service so that people in the store
start to stare. The clerk calls the store manager; after some discussion, the manager agrees
to give you your money back.
Is this ethical? Would you be likely to do this if you were this customer?

These situations are hypothetical; however, the problems they present are real ones for negotiators. People in and out of organizations are routinely confronted with important decisions about the strategies they will use to achieve important objectives, particularly when a variety of influence tactics are open to them. These decisions frequently carry ethical implications. In this chapter, we address the major ethical issues that arise in negotiation through consideration of these questions:

1. What are ethics, and why do they apply to negotiation?
2. What major approaches to ethical reasoning are relevant to negotiation?
3. What questions of ethical conduct are likely to arise in negotiation?
4. What motivates unethical behavior, and what are the consequences?
5. What factors shape a negotiator’s predisposition to use unethical tactics?
6. How can negotiators deal with the other party’s use of deception?

What Do We Mean by “Ethics,” and Why Do They Matter in Negotiation?

Ethics Defined

Ethics are broadly applied social standards for what is right or wrong in a particular situation, or a process for setting those standards. They differ from morals, which are individual and personal beliefs about what is right and wrong. Ethics grow out of particular philosophies, which purport to (1) define the nature of the world in which we live and (2) prescribe rules for living together. Different philosophies adopt distinct perspectives on these questions, which means in practice that they may lead to different judgments about what is right and wrong in a given situation. The “hard work” of ethics in practice is figuring out how ethical philosophies differ from one another, deciding which approaches are personally preferable, and applying them to real-world situations at hand.

Our goal is to distinguish among different criteria, or standards, for judging and evaluating a negotiator’s actions, particularly when questions of ethics might be involved. Although negotiation is our focus, the criteria involved are really no different than might be used to evaluate ethics in business generally. An ethical dilemma in business exists when a manager faces a decision “in which the financial performance (measured by the revenues, costs, and profits generated by the firm) and the social performance (stated in terms of the obligations to the individuals and groups associated with the firm) are in conflict” (Hosmer, 2003, p. 85). Analogously, an ethical dilemma exists for a negotiator when possible actions or strategies put the potential economic benefits of doing a deal in conflict with one’s social obligations to other involved parties or one’s broader community.

Many writers on business ethics have proposed frameworks that capture competing ethical standards (and as we shall see later, these typically map onto classical theories of ethical philosophy that have been around a long time). Drawing on some of these writers
(Green, 1994; Hitt, 1990; Hosmer, 2003), here are four standards for evaluating strategies and tactics in business and negotiation:

- Choose a course of action on the basis of results I expect to achieve (e.g., greatest return on investment).
- Choose a course of action on the basis of my duty to uphold appropriate rules and principles (e.g., the law).
- Choose a course of action on the basis of the norms, values, and strategy of my organization or community (e.g., the usual way we do things at this firm).
- Choose a course of action on the basis of my personal convictions (e.g., what my conscience tells me to do).

Each of these approaches reflects a fundamentally different approach to ethical reasoning. The first may be called **end-result ethics**, in that the rightness of an action is determined by evaluating the pros and cons of its consequences. The second is an example of what may be called **duty ethics**, in that the rightness of an action is determined by one’s obligation to adhere to consistent principles, laws, and social standards that define what is right and wrong and where the line is. The third represents a form of **social contract ethics**, in that the rightness of an action is based on the customs and norms of a particular community. Finally, the fourth may be called **personalistic ethics**, in that the rightness of the action is based on one’s own conscience and moral standards.

**Applying Ethical Reasoning to Negotiation**

Each of these approaches could be used to analyze the five hypothetical situations at the beginning of the chapter. For instance, in the first situation involving selling a stereo and the statement to a prospective buyer about the existence of another potential buyer:

- If you believed in **end-result** ethics, then you might do whatever was necessary to get the best possible outcome (including lie about an alternative buyer).
- If you believed in **duty** ethics, you might perceive an obligation never to engage in subterfuge, and might therefore reject a tactic that involves an outright lie.
- If you believed in **social contract** ethics, you would base your tactical choices on your view of appropriate conduct for behavior in your community; if others would use deception in a situation like this, you lie.
- If you believed in **personalistic** ethics, you would consult your conscience and decide whether your need for cash for your upcoming trip justified using deceptive or dishonest tactics.

What this example shows is that the approach to ethical reasoning you favor affects the kind of ethical judgment you make, and the consequent behavior you choose, in a situation that has an ethical dimension to it. These four approaches—think of them as ethical schools of thought—are the basis for our in-depth treatment of ethics in negotiation in the next major section of this chapter. First, however, allow us a brief digression on how ethics fits with other motives and bases for decisions about tactics and strategy.
Chapter 9 Ethics in Negotiation

Ethics versus Prudence versus Practicality versus Legality

Discussions of business ethics frequently confuse what is ethical (appropriate as determined by some standard of moral conduct) versus what is prudent (wise, based on trying to understand the efficacy of the tactic and the consequences it might have on the relationship with the other) versus what is practical (what a negotiator can actually make happen in a given situation) versus what is legal (what the law defines as acceptable practice) (Missner, 1980). In earlier chapters, we evaluated negotiation strategies and tactics by the prudence and practicality criteria; in this chapter, the focus is on evaluating negotiation strategies and tactics by ethical criteria.

There are other criteria that come into play. For example, Lax and Sebenius (1986) suggest that some people want to be ethical for intrinsic reasons—it feels better because behaving ethically allows them to see themselves as moral individuals or because certain principles of behavior are seen as moral absolutes. Others may judge ethical behavior in more instrumental terms—good ethics make good business. But no matter how reasonable the motives, it is still often that case that people’s judgments about what is ethical or unethical in negotiation are not crystal clear. On the one hand, negotiators see some tactics as marginal—defined in shades and degrees rather than in absolutes. Reasonable people will disagree as to exactly where to draw the line between what is ethical and what is unethical for some tactics (e.g., bluffing about one’s reservation price). On the other hand, negotiators show marked agreement that certain tactics are clearly unethical (e.g., outright falsification of information). Thus, although it may be difficult to tell a negotiator exactly what behaviors are ethical and unethical in any one circumstance, the subject of ethics is no less important. Examining ethics encourages negotiators to examine their own decision-making processes. In addition, sharpening the questions they ask will help negotiators create the opportunity for further studies on the complexity of ethical judgments (Lewicki, 1983; Raiffa, 1982).

Figure 9.1 presents a helpful way to think about what it means to comprehend and analyze an ethical dilemma. The figure shows a model of the process of analyzing a moral problem developed by Larue Hosmer (2003), a writer on business ethics. According to Hosmer, before one can ponder solutions, the first step is developing a complete understanding of the moral problem at hand. Looking at the left side of Figure 9.1, this means grasping the various subjective standards (norms, beliefs, values, etc.) in play among involved parties and recognizing the mix of potential harms, benefits, and rights that are involved in the situation. With the problem fully defined, the path to a convincing solution travels through the three modes of analysis shown on the right side of the figure: (1) a determination of economic outcomes of potential courses of action, (2) a consideration of legal requirements that bear on the situation, and (3) an assessment of the ethical obligations to other involved parties regarding what is “right” and “just” and “fair” (Hosmer, 2003, p. 87). This last element—ethical reasoning—benefits from a basic, working knowledge of ethical philosophy. In that spirit, we move now to a closer look at the four fundamental standards we identified above and their application to negotiator ethics.

Four Approaches to Ethical Reasoning

Those who write about business ethics tend to approach the subject from the perspectives of major philosophical theories (see Table 9.1). Drawing on this literature, we now take a closer look at the four ethical standards for making decisions in negotiation that we introduced above: end-result ethics, duty ethics, social contract ethics, and personalistic ethics.
End-Result Ethics

Many of the ethically questionable incidents in business that upset the public involve people who argue that the ends justify the means—that is, who deem it acceptable to break a rule or violate a procedure in the service of some greater good for the individual, the organization, or even society at large. Several examples come to mind. Suppose a television network has convincing statistical evidence that a particular pickup truck was designed unsafely, so that in 1 test out of 10, it bursts into flame when hit in a side collision. To highlight this defect, the network producer decides to stage and videotape an accident. But because a collision may create a fire only 1 time in 10, and the producer can’t afford to destroy 10 (or more) trucks, he decides to place detonators near the gas tank of the truck to be used. Thus, the exploding truck viewers would see would have been designed to “simulate” what (supposedly) happens to (supposedly) 1 truck out of 10. Is this unethical, even if the producer’s goal is to warn viewers about the hazards of this truck model?

Consider a second example: a pharmaceutical company is convinced, as a result of early tests, that it has developed a dramatic new miracle drug that will cure some forms of cancer. But it cannot release the drug yet because it has to comply with government regulation that controls drug testing prior to widespread distribution, and thousands of lives may be lost before the government approves the drug. Is it unethical to keep the drug off the market while the regulatory testing goes on? Or is it unethical to release the drug before it has been thoroughly tested?

Those who would argue that the simulated truck test was appropriate and that the drug should be marketed argue for end-result ethics. In the negotiation context, when negotiators have noble objectives to attain for themselves or their constituencies, they will argue that they can use whatever strategies they want. They draw on a view of ethics known as utilitarianism. The originators of utilitarianism as a school of thought were Jeremy Bentham (see Bentham, 1789) and John Stuart Mill (see Mill, 1962). Utilitarians (end-result or “consequentialist” ethicists) hold that the moral worth of a particular action should be judged on the basis of the consequences it produces. Because they measure morality by the goodness
TABLE 9.1 | Four Approaches to Ethical Reasoning

<table>
<thead>
<tr>
<th>Ethical System</th>
<th>Definition</th>
<th>Major Proponent</th>
<th>Central Tenets</th>
<th>Major Concerns</th>
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</thead>
<tbody>
<tr>
<td>End-result ethics</td>
<td>Rightness of an action is determined by considering consequences.</td>
<td>Jeremy Bentham (1748–1832)</td>
<td>• One must consider all likely consequences.</td>
<td>• How does one define happiness, pleasure, or utility?</td>
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<td></td>
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<td>John Stuart Mill (1806–1873)</td>
<td>• Actions are more right if they promote more happiness, more wrong as they produce unhappiness.</td>
<td>• How does one measure happiness, pleasure, or utility?</td>
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<td></td>
<td></td>
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<td>• Happiness is defined as presence of pleasure and absence of pain.</td>
<td>• How does one trade off between short-term vs. long-term happiness?</td>
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<td></td>
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<td>• Promotion of happiness is generally the ultimate aim.</td>
<td>• If actions create happiness for 90% of the world and misery for the other 10%, are they still ethical?</td>
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<td></td>
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<td>• Collective happiness of all concerned is the goal.</td>
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<tr>
<td>Duty ethics</td>
<td>Rightness of an action is determined by considering obligations to apply universal standards and principles.</td>
<td>Immanuel Kant (1724–1804)</td>
<td>• Human conduct should be guided by primary moral principles, or “oughts.”</td>
<td>• By what authority do we accept particular rules or the “goodness” of those rules?</td>
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<td></td>
<td></td>
<td>• Individuals should stand on their principles and restrain themselves by rules.</td>
<td>• What rule do we follow when rules conflict?</td>
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<td>• The ultimate good is a life of virtue (acting on principles) rather than pleasure.</td>
<td>• How do we adapt general rules to fit specific situations?</td>
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<td>• We should not adjust moral law to fit our actions, but adjust our actions to fit moral law.</td>
<td>• What happens when good rules produce bad consequences?</td>
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<td>• Are there rules without any exceptions?</td>
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TABLE 9.1  (Concluded)

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<tr>
<th>Ethical System</th>
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<th>Central Tenets</th>
<th>Major Concerns</th>
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</table>
| Social contract ethics  | Rightness of an action is determined by the customs and norms of a community. | Jean-Jacques Rousseau (1712–1778) | • People must function in a social, community context to survive.  
  • Communities become “moral bodies” for determining ground rules.  
  • Duty and obligation bind the community and the individual to each other.  
  • What is best for the common good determines the ultimate standard.  
  • Laws are important, but morality determines the laws and standards for right and wrong. | • How do we determine the general will?  
  • What is meant by the “common good”?  
  • What do we do with independent thinkers who challenge the morality of the existing social order (e.g., Jefferson, Gandhi, Martin Luther King)?  
  • Can a state be corrupt and its people still be “moral” (e.g., Nazi Germany)? |
| Personalistic ethics    | Rightness of an action is determined by one’s conscience.                    | Martin Buber (1878–1965)    | • Locus of truth is found in human existence.  
  • Conscience within each person calls them to fulfill their human-ness and to decide between right and wrong.  
  • Personal decision rules are the ultimate standards.  
  • Pursuing a noble goal by ignoble means leads to an ignoble end.  
  • There are no absolute formulas for living.  
  • One should follow one’s group but also stick up for what one individually believes. | • How could we justify ethics other than by saying, “it felt like the right thing to do”?  
  • How could we achieve a collective definition of what is ethical if individuals disagreed?  
  • How could we achieve cohesiveness and consensus in a team that only fosters personal perspectives?  
  • How could an organization assure some uniformity in ethics? |

or badness of consequences, utilitarians believe that the way to maximize virtue is to maximize the best consequences for the largest number of people—usually in terms of happiness, pleasure, or utility. The highest moral conduct is to maximize the greatest good for the greatest number.

Debate about end-result ethics centers on several key questions. First, how do people (and which people) define happiness or pleasure or maximum utility, and how can each be measured? Second, how do actors trade off between short-term consequences and long-term consequences, particularly when the short-term results are damaging to the long-term results (i.e., good in the short run, bad in the long run) or vice versa? Third, if people cannot create utility for everyone, is it adequate for them to create it for a large number of people, even if other people will not benefit or will even suffer? How does utilitarianism balance the benefits for a majority with the protection of the rights of a minority? The debate on these and other questions related to end-result ethics is ongoing.

Duty Ethics

In contrast to end-result ethics, duty ethics emphasize that individuals ought to commit themselves to a series of moral rules or standards and make decisions based on those principles. A strong proponent of this view was the 18th-century philosopher Immanuel Kant (see Kant, 1963, 1964). The term *deontology*—derived from the Greek word for obligation—is used commonly to label this school of thought. Deontologists argue that a decision based on the utilitarian standards just discussed—that is, based on evaluation of outcomes—is flawed because outcomes may be too uncertain at the time of the decision. Besides, the ethical merits of an action should be linked more to the intentions of the actor than to the outcomes of the act (Hosmer, 1993). Kant proposed a series of principles (summarized into a few central tenets in Table 9.1) that serve as the standard by which each person may judge his or her own action. Kant argued that these principles are established on purely rational grounds and that the principles can be debated (and improved upon) as we improve upon the key tenets of rational science. One of his fundamental principles was that one should choose to act in ways that one would want everyone else to act, were they faced with the same situation and circumstances.

For example, let us suppose that a militant subgroup within a labor union has organized in protest over what it feels are critical questions of worker safety. When their initial attempts to bring their concerns to management are rebuffed, they walk out in a wildcat strike. Some other rank-and-file union members, who are not particularly affected by the safety rules in question, nevertheless support the strike because they think the strikers’ concerns should be addressed by management. The strikers present a series of safety demands to management—if these demands are met, the strikers will return to work. Management agrees to meet the demands, and the strike ends. Management then immediately fires all the wildcatters for participating in the illegal strike and takes no action on the safety issues. The union leadership accuses management of unethical negotiating. In this situation, utilitarians might argue that management’s tactic of agreeing to meet the workers’ demands—even if that agreement was in bad faith—was necessary to end an illegal strike. The argument goes something like this: it is management’s job (not the workers’) to determine conditions of worker safety, and it is also management’s job to take action against wildcat
strikes; both of these job definitions justify, in management’s mind, the tactic of falsely agreeing to meet the wildcatters’ demands and then firing them. Thus, the utility of ending the strike (the end) justified the deception (the means) in the negotiation.

In contrast, deontologists might argue that management has a responsibility to adhere to the principles of honesty and integrity—negotiating in good faith and not acting retributively against the strikers—because adhering to these principles over the long term will produce the best results for union–management relations, and no particular end can justify dishonest means. For example, in the truck fire scenario described earlier (which was, by the way, a real series of events involving an NBC network news program in 1993), the decision to stage the collision cost NBC’s news department a great deal of negative publicity and credibility and cost both the producer and eventually the head of the NBC News Division their jobs—consequences that are extremely serious and may or may not be equivalent to the possibility of lives being lost in the dangerous pickup trucks.

These scenarios, and many others like them, constitute the grist of the debate between end-results ethics and duty ethics. When addressing means–ends questions in competition and negotiation, observers usually focus the most attention on the question of what strategies and tactics may be seen as appropriate to achieve certain ends. Are exploitative, manipulative, or devious tactics ever justifiable, even if they produce good ends for a large number of people? For example, in a hostage crisis, is it ethical for a government to agree to grant a terrorist immunity if he releases the hostages, even though the government has every intention of capturing and prosecuting the terrorist once his hostages are released? Many people would argue that end-result ethics win out here over duty ethics prescribing honesty and integrity, but there will also be detractors.
Clearly, deontology has its critics as well. Who sets the standards and makes the rules? What are the rules that apply in all circumstances? For example, those who believe strictly in the commandment (rule) “Thou shalt not kill” will argue that the commandment is the same regardless of whether the subject is murder, the death penalty for a convicted murderer, military combat, abortion (even to save the life of the mother), or assisted suicide (e.g., for terminally ill or suffering patients). What happens when two principles conflict? For example, if there are two obligations—one that says you should be considerate of others’ feelings and another that says you should tell the truth—what do you do when you have to tell your best friend a truth that is painful and will hurt his or her feelings? How can the rules be adapted to specific situations, and what happens when the standards change over time? What happens when good rules produce bad circumstances? For example, cases of physician-assisted suicide result in moral conflict on both sides. The patient feels a moral dilemma between a right to make an autonomous decision to end his or her life with dignity and a moral prohibition against killing. Similarly, the doctor faces a moral dilemma between the mandate to save lives and “do no harm,” and an obligation to relieve undue suffering for those whose lives cannot be saved. These and other questions and situations lead some to believe that an ethical emphasis on duties and rules creates more problems than it solves.

**Social Contract Ethics**

A third standard of ethics holds that the rightness of an action is determined by the customs and social norms of a community. This view is best articulated in the basic writings of Jean-Jacques Rousseau (1947). Rather than arguing that the utility of ends determines the standards, or that universal obligations should apply in all situations, social contract ethicists argue that societies, organizations, and cultures determine what is ethically appropriate and acceptable for themselves and then indoctrinate new members as they are socialized into the fabric of the community. In a sense, each member of the group agrees to an implied (or even explicit) social contract that explains what the individual is expected to give to the community, what the individual can get back from the community, and the social rules or norms that all members are expected to follow.

Social contract ethicists focus on what individuals owe to their community (country, organization, neighborhood, etc.) and what they can or should expect in return. As applied to negotiation, social contract ethics would prescribe which behaviors are appropriate in a negotiation context in terms of what people owe one another. For example, the context of a used-car negotiation may suggest that a buyer does not expect the truth from the salesperson, and therefore does not owe the salesperson the truth either. So when the salesperson lies about the reliability or gas mileage of the automobile that is for sale, the buyer should have no compunctions about lying about her interest in the car or her real intention to bring her friend back to take a closer look at it. In contrast, if a salesperson is establishing a long-term association with a customer, in this context—establishing an ongoing relationship with a valued partner who should be treated honorably and fairly now and in the future—the salesperson owes it to that customer to tell her the truth when he discovers defects in his products or when he will be late in shipping due to manufacturing errors and problems (Carlisle and Parker, 1989).
As we noted in Table 9.1, social contract ethics are also not without problems. How do we decide what implicit rules should apply to a given relationship, particularly when we have not explicitly spelled out those rules? Who makes these social rules, and how are they evaluated and changed? What happens when the existing social contract becomes corrupted over time (through collusion, monopolistic practices, etc.) such that it needs to be challenged by those who seek change and reform? Are new recruits to an organization bound by a contract that is unfulfilled or violated by the organization? These critical questions pose important challenges for those who advocate a social contract view of ethical decision making.

**Personalistic Ethics**

A fourth standard of ethics is that, rather than attempting to determine what is ethical based on ends, duties, or the social norms of a community, people should simply consult their own conscience. As argued most clearly by the philosopher Martin Buber (1958, 1963), the foundations for ethical behavior lie in the human conscience. Hitt (1990) offers an interesting example to highlight the tenets of this approach relative to the three earlier models:

The setting is an outdoor hotel swimming pool on a warm July morning. At this particular time of day, there are only two persons present—a father who is fully clothed, sitting in a lounge chair beside the pool and reading the newspaper, and his five-year-old daughter, who is wading in the pool. While the father is engrossed in reading the sports page, he hears his daughter scream for help. She has waded into the deep end of the pool and is struggling to keep her head above water. At this moment, what is the right thing for the father to do? And what system of ethics will he use? If he chooses end-result ethics, he will compare the utilities associated with ruining his clothes, watch and billfold with those associated with saving his daughter’s life. If he chooses rule ethics, he might first check to see if the hotel has posted any rules that prohibit a fully clothed person from entering the pool. And if he chooses social contract ethics, he might reflect on the social contract that he has with his family members. Obviously, he will choose none of these. He will jump into the pool immediately to rescue his daughter (pp. 121–22).

Hitt argues that the motivation to action is clearly the conscience of the father crying, “Act now!” The very nature of human existence leads individuals to develop a personal conscience, an internal sense of what is right and what one ought to do. Ultimately, these rules remain individual and personal, although they can be influenced by the social forces that lead people to reason ethically and learn to do the right thing—because, in this view, ethical judgments must be made by each individual; there are no absolutes. People must determine what is right and appropriate to do, on their own, and they should not impose their standards on others. Many of these forces are part of an individual’s upbringing and are represented by what he or she learns at home, in school, and at religious institutions.

As applied to negotiation, personalistic ethics maintain that everyone ought to decide for themselves what is right based on their conscience (whatever it may say to them). Whether one lies, cheats, or steals, therefore, is ultimately a matter of individual conscience and not the nature of the ends, duties, rules, or narrow interpretations of the social contract. However, as you can well imagine, critics have argued that no one is as pure as Martin Buber. Individual conscience is too narrow and limited as a standard to apply to a broader
social context (such as an organization). Finally, some critics would argue that social institutions (families, schools, houses of worship) have declined in their roles as teachers of character and developers of conscience; thus, it is not clear that younger members of society have a strong conscience by which they can act. In addition, personalistic ethics provide no mechanism for resolving disputes when they lead to conflicting views between individuals as to what is right or proper; conflicting views among individuals would lead to teams and organizations that have tremendous value rifts within them because there is no common set of ground rules and no mechanism for resolving value-based disputes.

Section Summary In this section, we have reviewed four major approaches to ethical reasoning: end-result ethics, or the principles of utilitarianism; duty ethics, or the principles of deontology; social contract ethics, or the principles of community-based socially acceptable behavior; and personalistic ethics, or the principles of determining what is right by turning to one’s conscience. Negotiators may use each of these approaches to evaluate appropriate strategies and tactics. We next explore some of the factors that tend to influence, if not dictate, how negotiators are disposed to deal with ethical questions.

What Questions of Ethical Conduct Arise in Negotiation?
Why do some negotiators choose to use tactics that may be unethical? The first answer that occurs to many people is that such negotiators are corrupt, degenerate, or immoral. However, that answer is much too simplistic. As we discussed in Chapter 5, people tend to regard other people’s unsavory behavior as caused by disposition or personality, while attributing the causes of their own behavior to factors in the social environment (Miller and Ross, 1975). Thus, a negotiator might consider an adversary who uses an ethically questionable tactic unprincipled, profit-driven, or willing to use any tactic to get what he or she wanted. In contrast, when attempting to explain why you as the negotiator might use the same tactic, you would tend to say that you are highly principled but had very good reasons for deviating from those principles just this one time.

In this section we discuss negotiation tactics that bring issues of ethicality into play. We first discuss what we mean by tactics that are “ethically ambiguous,” and we link negotiator ethics to the fundamental issue of truth telling. We then describe research that has sought to identify and classify such tactics and analyze people’s attitudes toward their use. We also distinguish between active and passive forms of deception—lies of omission versus commission. The section concludes with a model that portrays the negotiator’s decision-making process with respect to the possible use of such tactics.

Ethically Ambiguous Tactics: It’s (Mostly) All about the Truth
Little needs to be said about the wide range of tactics available to a negotiator. We discussed many of these tactics in Chapters 2 and 3, when we discussed distributive bargaining and integrative negotiation, and in Chapter 8, when we discussed a variety of influence and persuasion tactics. Here we discuss what kinds of tactics are ethically ambiguous and how they can work to afford a temporary strategic advantage. Our use of the phrase ethically ambiguous reflects a carefully considered choice of words. One dictionary defines
“ambiguous” as “open to more than one interpretation . . . doubtful or uncertain.” We are interested in tactics that may or may not be improper, depending on an individual’s ethical reasoning and circumstances.

Most of the ethics issues in negotiation are concerned with standards of truth telling—how honest, candid, and disclosing a negotiator should be. That is, individuals must decide (according to one or more of the ethical theories presented earlier) when they should tell the truth (the whole truth and nothing but the truth) as opposed to engaging in some behavior short of telling the truth. The attention here is more on what negotiators say (communicate about) or what they say they will do (and how they say it) than on what they actually do (although negotiators may act unethically as well). Some negotiators may cheat (violate formal and informal rules—e.g., claiming that rules about deadlines or procedures don’t apply to them) or steal (e.g., break into the other party’s or competitor’s database or headquarters to secure confidential documents or briefing memoranda), but most of the attention in negotiator ethics has been on lying behavior.

Most negotiators would probably place a high value on a reputation for being truthful. Yet what does being truthful mean? Questions about truth telling are straightforward, but the answers are not so clear. First, how does one define truth? Do you follow a clear set of rules, determine what the social contract is for truth in your group or organization, or follow your conscience? Second, how does one define and classify deviations from the truth? Are all deviations lies, no matter how small and minor they are? Finally, one can add a relativistic dimension to these questions: should a person tell the truth all the time, or are there times when not telling the truth is an acceptable (or even necessary) form of conduct? These are questions of major concern to negotiators (and philosophers since time immemorial!) who are trying to decide what they can and cannot say and still remain ethical.

A number of articles in business journals have addressed the ethical issues surrounding truth telling. For example, Carr (1968) argued in a controversial Harvard Business Review article titled “Is Business Bluffing Ethical?” that strategy in business is analogous to strategy in a game of poker. He advocated that, short of outright cheating (the equivalent of marking cards or hiding an ace up your sleeve), businesspeople ought to play the game as poker players do. Just as good poker playing often involves concealing information and bluffing (convincing others that you have the cards when you really don’t), so do many business transactions. From time to time, most executives find themselves compelled, for their own interests or the interests of their companies, to practice some form of deception in their dealings with customers, suppliers, labor unions, government officials, or even other key executives. Through conscious misstatements, concealment of pertinent facts, or exaggeration—in short, bluffing—they seek to persuade others to agree with them. Carr argues that if an executive refuses to bluff periodically—if he or she feels obligated to tell the truth, the whole truth, and nothing but the truth all the time—he or she is probably ignoring opportunities permitted under the rules of business and is probably at a heavy disadvantage in business dealings (p. 144).

Carr (1968) further advocated a modified ethical act-based and rule-based relativism for standards of truth telling. Bluffing, exaggeration, and concealment or manipulation of information, he maintained, are legitimate ways for both individuals and corporations to maximize their self-interest. Such strategies may be either advantageous or disadvantageous. An executive might plead poverty in a contract negotiation with a key employee and
thereby save a significant amount of money for the company. However, a similar cost-cutting focus might lead the same executive to fail to make safety or quality improvements on one of the company’s products, which could have severe long-term business consequences. As you can well imagine, Carr’s position sparked lively debate among *Harvard Business Review* readers. A number of critics argued that individual businesspeople and corporations should be held to higher standards of ethical conduct, and they took Carr to task for his position. Three decades later, Koehn (1997) challenged Carr’s premise that negotiating is a game that legitimizes deceptive behavior, arguing that most games do not legitimize deception and that therefore Carr’s logic is faulty. More recently, Alhoff (2003), in an essay titled “Business Bluffing Reconsidered,” tried to strike a middle ground between Carr and Koehn, conceding Koehn’s point that the game analogy may be faulty, but arguing that bluffing is permissible in certain forms within business negotiation “for the same reason that it is permissible in games, namely that the participants endorse the practice” (p. 287).

Questions and debate regarding the ethical standards for truth telling in negotiation are ongoing. As we pointed out when we discussed interdependence (Chapter 1), negotiation is based on information dependence (Kelley and Thibaut, 1969)—the exchange of information regarding the true preferences and priorities of the other negotiator. Arriving at a clear, precise, effective negotiated agreement depends on the willingness of the parties to share accurate information about their own preferences, priorities, and interests. At the same time, because negotiators may also be interested in maximizing their self-interest, they may want to disclose as little as possible about their positions—particularly if they think they can do better by manipulating the information they disclose to the other party (see Chapter 2). This results in fundamental negotiation dilemmas involving trust and honesty (Kelley, 1966). The dilemma of trust is that a negotiator who believes everything the other says can be manipulated by dishonesty. The dilemma of honesty is that a negotiator who tells the other party all of his exact requirements and limits will, inevitably, never do better than his walkaway point. As Rubin and Brown (1975) note, “To sustain the bargaining relationship, each party must select a middle course between the extremes of complete openness toward, and deception of, the other. Each must be able to convince the other of his integrity while not at the same time endangering his bargaining position” (p. 15).

As a final point on the subject of truth-telling, there is, beyond ethics, the matter of legal obligations to be truthful. Deception in negotiation can rise to the level of legally actionable fraud. The law on this subject (like on most subjects!) is complex and often hard to pin down. See Box 9.1 for a guide to the (il)legality of lying in negotiation.3

### Identifying Ethically Ambiguous Tactics and Attitudes toward Their Use

**What Ethically Ambiguous Tactics Are There?** Deception and subterfuge may take several forms in negotiation. Researchers have been working to identify the nature of these tactics, and their underlying structure, for almost 20 years (e.g., Lewicki and Robinson, 1998).4 They have extensively explored the nature and conceptual organization of ethically ambiguous negotiating tactics. The general approach has been to ask students and executives to rate a list of tactics on several dimensions: the appropriateness of the tactic, the rater’s likelihood of using the tactic, and/or the perceived efficacy of using the
Although a major focus in the ethics of negotiation is on the morality of using deception in negotiation, it also behooves the effective negotiator to be familiar with the legality of doing so. Richard Shell, a lawyer and professor who writes about and teaches negotiation, offered an interpretation of U.S. law in his article “When Is It Legal to Lie in Negotiation?”

Shell starts with a basic “common law” definition of fraud: “a knowing misrepresentation of a material fact on which the victim reasonably relies and which causes damage” (p. 94; emphasis added).

A closer look at the meaning of the key (italicized) words in this definition brings legal issues involving lying in negotiation into focus.

A misrepresentation. An affirmative misstatement of something.

A knowing misrepresentation. Shell says a misrepresentation is “knowing” when you know that what you say is false when you say it. Does this mean you can skirt liability by avoiding coming into contact with the knowledge involved? Shell says no—courts would regard that as reckless disregard for the truth.

A fact. To be illegal, in theory, the thing being misrepresented generally has to be an objective fact. But in practice, Shell points out that misstating an opinion or an intention can get you into trouble if it builds on factual misrepresentation or is particularly egregious—especially if you know the falsity at the time you make the statement or promise.

A material fact. Not all “facts” are objective or material. Shell says that by the standards of legal practice in the United States, demands and reservation points are not regarded as “material” to the deal, so it is not actionable fraud to bluff about them. He cautions, however, that lying about alternatives or other offers or other buyers can get you into trouble. It’s not clear that these are always material, but this kind of thing may be left up to a jury to decide if a claim of fraud went to trial.

Reliance/causation. For a deceptive statement to be legally fraudulent, the receiver must prove that he or she relied on the information and that doing so caused harm.

Does this mean that illegal deception always involves affirmative statements that are false? Will silence protect you from legal liability? Shell says no: there are conditions under which you are legally bound to share truthful information. For instance, you are obligated to disclose in these situations:

- If you make a partial disclosure that would be misleading.
- If the parties stand in fiduciary relationship to one another.
- If the nondisclosing party has “superior information” that is “vital.”
- In cases involving certain specialized transactions, such as insurance contracts.

Knowing the law is a good idea, but Shell cautions that splitting legal hairs to gain tactical advantage is unwise: “In negotiation, people who rely on the letter of legal rules as a strategy for plotting unethical conduct are very likely to get into deep trouble. But people who rely on a cultivated sense of right and wrong to guide them in legal matters are likely to do well” (p. 99).

Analyzing these questionnaire results, six clear categories of tactics emerged and have been confirmed by additional data collection and analysis (Robinson, Lewicki, and Donahue, 2000; Barry, Fulmer, and Long, 2000). These categories are listed in Table 9.2. It is interesting to note that of the six categories, two—emotional manipulation and the use of “traditional competitive bargaining” tactics—are viewed as generally appropriate.

**TABLE 9.2 | Categories of Marginally Ethical Negotiating Tactics**

<table>
<thead>
<tr>
<th>Category</th>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>Traditional competitive</td>
<td>Not disclosing your walkaway; making an inflated opening offer</td>
</tr>
<tr>
<td>bargaining</td>
<td></td>
</tr>
<tr>
<td>Emotional manipulation</td>
<td>Faking anger, fear, disappointment; faking elation, satisfaction</td>
</tr>
<tr>
<td>Misrepresentation</td>
<td>Distorting information or negotiation events in describing them to</td>
</tr>
<tr>
<td></td>
<td>others</td>
</tr>
<tr>
<td>Misrepresentation to</td>
<td>Corrupting your opponent’s reputation with his or her peers</td>
</tr>
<tr>
<td>opponent’s networks</td>
<td></td>
</tr>
<tr>
<td>Inappropriate information</td>
<td>Bribery, infiltration, spying, etc.</td>
</tr>
<tr>
<td>gathering</td>
<td></td>
</tr>
<tr>
<td>Bluffing</td>
<td>Insincere threats or promises</td>
</tr>
</tbody>
</table>

and likely to be used. These tactics, therefore, while mildly inappropriate, are nevertheless seen as appropriate and effective in successful distributive bargaining. The other four categories of tactics—misrepresentation, bluffing, misrepresentation to opponent’s network, and inappropriate information collection—are generally seen as inappropriate and unethical in negotiation.

**Does Tolerance for Ethically Ambiguous Tactics Lead to Their Actual Use?** As we indicated earlier, much of the research on these tactics has asked people to respond to questionnaires about their judgment of the ethicality of certain tactics and what they would be likely to do in a negotiation. One researcher (Volkema, 2001) selected five specific tactics from the larger group of unethical tactics described in the previous section and made them available to participants in a competitive buyer–seller negotiation role-play. These five tactics were exaggerating an opening offer, pretending not to be in a hurry, hiding one’s own bottom line, misrepresenting factual information, and making promises that could not be kept. Volkema measured each person’s attitude toward using the tactics in general and using a specific tactic (judging whether it was appropriate or not), likelihood of using the tactics in general and using a specific tactic, and actual use of the tactic in the role-play. The findings from the study suggested the following:

- There is a positive relationship between an attitude toward the use of each specific tactic and the intention to use it.
- There is a positive relationship between an attitude toward the use of a specific tactic and actually using that tactic for four of the five tactics studied.
- Hiding the bottom line was the tactic most frequently used, exaggerating an opening offer was the second most commonly used, followed by stalling for time and misrepresenting information. Making empty promises was used only about 10 percent of the time.
- Hiding the bottom line improved negotiator performance in the role-play. Negotiators also believed that making empty promises, misrepresenting information, and exaggerating their opening offer improved their performance, although there was no direct evidence that their performance was actually better.

**Is It All Right to Use Ethically Ambiguous Tactics?** The studies summarized here indicate that there are tacitly agreed-on rules of the game in negotiation. In these rules, some minor forms of untruths—misrepresentation of one’s true position to the other party, bluffs, and emotional manipulations—may be seen by some negotiators as ethically acceptable and within the rules (but not by others). In contrast, outright deception and falsification are generally seen as outside the rules. However, we must place some strong cautionary notes on these conclusions. First, these statements are based on ratings by large groups of people (mostly business students); in no way do they, or should they, predict how any one individual negotiator will perceive and use the tactics or how any one target who experiences them will rate them. (We discuss reactions from the “victim’s” perspective later in this chapter.) Second, these observations are based primarily on what people said they would do, rather than what they actually did (the Volkema study we just
described is a rare exception). Perceptions and reactions may well be different when the parties are making decisions in an actual negotiation, rather than rating the tactics on a questionnaire removed from any direct experience with another person in a meaningful social context. Third, by engaging in research on ethically ambiguous tactics (as the authors of this book have) and reporting these results, we do not mean to endorse the use of any marginally ethical tactic. Instead, our objective is to focus debate among negotiators on exactly when these tactics might be appropriate or should be used. Finally, we acknowledge that this is a Western view, in which individuals determine what is ethically acceptable; in some other cultures (e.g., Asia), a group or organization would decide on ethics, while in other cultures (e.g., some nations with emerging free markets), ethical constraints on negotiated transactions may be minimal or hard to determine clearly, and “let the buyer beware” at all times!

**Deception by Omission versus Commission**

The use of deceptive tactics can be active or passive. To illustrate, consider a study by O’Connor and Carnevale (1997), who examined the tendency for negotiators to misrepresent their interests on a common-value issue—an issue for which both parties are seeking the same outcome. A negotiator using this tactic deceives the other party about what she wants on the common-value issue and then (grudgingly) agrees to accept the other party’s preference, which in reality matches her own. By making it look as though she has made a concession, she can seek a concession from the other party in return. Overall, 28 percent of O’Connor and Carnevale’s subjects misrepresented the common-value issue in an effort to obtain a concession from the other party. The researchers discovered that negotiators used two forms of deception in misrepresenting the common-value issue: misrepresentation by omission (failing to disclose information that would benefit the other) and misrepresentation by commission (actually lying about the common-value issue).

Schweitzer (1997; Schweitzer and Croson, 1998) also examined factors that affected the tendency of negotiators to lie about material facts. Students took part in a role-play involving the sale of a car with a defective transmission. Students could lie by omission—by simply failing to mention the defective transmission—or by commission—by denying that the transmission was defective even when asked by the other party. Far more students were willing to lie by omission (not revealing the whole truth) than by commission (falsely answering a question when asked). This finding points to an important insight into human nature: many people are willing to let another person continue to operate under false premises, but will stop short of assertively making a false statement themselves. It clearly reinforces the norm of caveat emptor (let the buyer beware), suggesting that it is up to each party to ask the right questions and be appropriately skeptical when accepting the other’s pitch.

**The Decision to Use Ethically Ambiguous Tactics: A Model**

We conclude this section of the chapter with a relatively simple model that helps explain how a negotiator decides whether to employ one or more deceptive tactics (see Figure 9.2). The model casts a negotiator in a situation where he or she needs to decide which tactics to
FIGURE 9.2 | A Simple Model of Deception in Negotiation

1. Influence Situation
2. Identification of Range of Influence Tactics
3. Use Deceptive Tactics
   - Yes
     1. Selection and Use of Deceptive Tactic(s)
     2. Consequences
        1. Impact of Tactic: Does It Work?
        2. Self-evaluation
        3. Feedback and Reaction From other Negotiator, Constituency, and Audiences
   - No
     1. Explanations and Justifications
use to influence the other party. The individual identifies possible influence tactics that could be effective in a given situation, some of which might be deceptive, inappropriate, or otherwise marginally ethical. Once these tactics are identified, the individual may decide to actually use one or more of them. The selection and use of a given tactic is likely to be influenced by the negotiator’s own motivations and his or her perception/judgment of the tactic’s appropriateness. Once the tactic is employed, the negotiator will assess consequences on three standards: (1) whether the tactic worked (produced the desired result), (2) how the negotiator feels about him- or herself after using the tactic, and (3) how the individual may be judged by the other party or by neutral observers. Negative or positive conclusions on any of these three standards may lead the negotiator to try to explain or justify use of the tactic, but they will also eventually affect a decision to employ similar tactics in the future.

Why Use Deceptive Tactics? Motives and Consequences

In the preceding pages we discussed at length the nature of ethics and the kinds of tactics in negotiation that might be regarded as ethically ambiguous. Now we turn to a discussion of why such tactics are tempting and what the consequences are of succumbing to that temptation. We begin with motives, and motives inevitably begin with power.

The Power Motive

The purpose of using ethically ambiguous negotiating tactics is to increase the negotiator’s power in the bargaining environment. As we discussed in Chapter 7, information is a major source of leverage in negotiation. Information has power because negotiation is intended to be a rational activity involving the exchange of information and the persuasive use of that information. One view of negotiation is that it is primarily an exchange of facts, arguments, and logic between two wholly rational information-processing entities. Often, whoever has better information, or uses it more persuasively, stands to “win” the negotiation.

Such a view assumes that the information is accurate and truthful. To assume otherwise—that it is not truthful—is to question the very assumptions on which daily social communication is based and the honesty and integrity of the presenter of that information. Of course, raising such questions openly might insult the others and reduce the implied trust we placed in them. Moreover, investigating someone else’s truthfulness and honesty is time and energy consuming. So any inaccurate and untruthful statements (i.e., lies) introduced into this social exchange manipulate information in favor of the introducer. Through the tactics we described earlier—bluffing, falsification, misrepresentation, deception, and selective disclosure—the liar gains advantage. In fact, it has been demonstrated that individuals are more willing to use deceptive tactics when the other party is perceived to be uninformed or unknowledgable about the situation under negotiation; particularly when the stakes are high (Boles, Croson, and Murnighan, 2000). The receiver either accepts the information at face value or has to decide whether there is a basis for challenging the other person’s accuracy, credibility, and intentions (and/or must attempt to independently verify that information).
Why Do Racers Cheat?

The *Boston Globe* investigated incidents of cheating during the late 1990s in the Boston Marathon and other similar competitions around the country. The report listed the following explanations:

1. Some cheaters were angry or disturbed, often demonstrating a pattern of erratic, unethical, or illegal behaviors.
2. More typically, cheaters were described as middle-aged males who were often successful in many parts of their lives and found it difficult not to be equally successful in racing.
3. Some people were categorized as “unintentional cheaters”; these were people who simply were caught up in the racing moment and did not fully realize what they were doing at the time.
4. Cheaters typically sought recognition rather than prize money or other material gain. Ironically, many reported that the negative publicity surrounding their cheating caused friends, neighbors, and even family members to view them negatively, even if they had never misbehaved before.

*Source: Larry Tye, “They’re Not in It for the Long Haul,” The Columbus (Ohio) Dispatch, April 19, 1998, p. 10E.*

Other Motives to Behave Unethically

The motivation of a negotiator can clearly affect his or her tendency to use deceptive tactics. (For example, see Box 9.2 for a discussion of the motives of cheaters in running.) When we consider individual differences in Chapter 15, we point out how motivational orientation—whether negotiators are motivated to act cooperatively, competitively, or individualistically toward each other—can affect the strategies and tactics they pursue. In the study cited earlier, O’Connor and Carnevale (1997) also manipulated the negotiators’ motivational orientation to the situation, predisposing parties to either a competitive or a cooperative orientation toward the other. Competitive negotiators—those looking to maximize their own outcome, regardless of the consequences for the other—were more likely to use misrepresentation as a strategy. Cultural differences may also map onto motivational influences: Sims (2002) found that individuals in a highly individualistic culture (the United States) were more likely to use deception for personal gain than those in a more collectivist culture (Israel). (We say more about connections between culture and negotiator ethics later in the chapter.)

But the impact of motives may be more complex. In an early study on tactics, Lewicki and Spencer (1991) asked negotiators about their predisposition to use ethically ambiguous tactics. Different versions of the questionnaire explicitly told respondents to assume either a competitive or a cooperative motivational orientation toward the other party and to assume that the other party would be taking either a competitive or a cooperative motivational orientation. The authors predicted that competitive motivations would elicit the strongest endorsement of ethically ambiguous tactics. The results revealed that differences in the negotiators’ own motivational orientation—cooperative versus competitive—did not cause differences in their view of the appropriateness of using the tactics, but the negotiators’ perception of the other’s expected motivation did! In other words, negotiators were significantly more likely to see the ethically ambiguous tactics as appropriate if they anticipated that the other party would be competitive versus cooperative. This finding suggests that negotiators may rationalize the use of marginally ethical tactics in anticipation of the other’s
expected conduct rather than take personal responsibility for using these tactics in the service of their own competitive orientation. Several authors (e.g., Batson and Thompson, 2001) have indicated that people may be more motivated to appear moral, rather than to actually act morally, because to act morally (e.g., act with integrity) may have a number of costs attached to it.

Earlier we discussed four philosophical approaches to the discussion of ethics in business: end-use, duty, social contract, and personalistic ethics. While these four approaches provide useful frameworks for scholars wishing to analyze ethical issues in business and other contexts, they also speak to the ways that individuals actually think about ethical dilemmas in practice. Perry and Nixon (2005) examined the extent to which an endorsement of each of these four philosophical frameworks predisposed individuals to engage in ethically ambiguous behavior during negotiations. They found that those who prefer an ends-based framework (utilitarian ethics) or a focus on community norms (social contract ethics) described themselves as more likely to engage in marginally unethical behavior such as making false promises or misrepresenting information. On the other hand, those inclined to adhere to rules and moral principles (duty-based ethics) were less comfortable with these tactics and, therefore, less likely to engage in ethically questionable practices.

The Consequences of Unethical Conduct

A negotiator who employs an unethical tactic will experience consequences that may be positive or negative, based on three aspects of the situation: (1) whether the tactic is effective; (2) how the other person, his or her constituencies, and audiences evaluate the tactic; and (3) how the negotiator evaluates the tactic. We discuss each in turn.

Effectiveness  Let us first consider the consequences that occur based on whether the tactic is successful or not. Clearly, a tactic’s effectiveness will have some impact on whether it is more or less likely to be used in the future (essentially, a simple learning and reinforcement process). If using the tactic allows a negotiator to attain rewarding outcomes that would be unavailable if he had behaved ethically, and if the unethical conduct is not punished by others, the frequency of unethical conduct is likely to increase because the negotiator believes he or she can get away with it. Thus, real consequences—rewards and punishments that arise from using a tactic or not using it—should not only motivate a negotiator’s present behavior but also affect his or her predisposition to use similar strategies in similar circumstances in the future. (For the moment, we will ignore the consequences of these tactics on the negotiator’s reputation and trustworthiness, an impact that most deceptive negotiators unfortunately ignore in the short term.)

These propositions have not been tested in negotiating situations, but they have been tested extensively in other research studies on ethical decision making. For example, research by Hegarty and Sims (1978) appears to support both of these assertions. In that study, when research participants expected to be rewarded for making an unethical decision by participating in a laboratory-simulated kickback scheme, they not only participated but also were willing to participate again when a second opportunity arose. Moreover, when there were also strong pressures on the research subjects to compete with others—for example, announcing how well each person had done on the task and giving a prize to the one with the highest score—the frequency of unethical conduct increased even further.
Reactions of Others  A second set of consequences may arise from judgments and eval-
uations by the person who was the “target” of the tactic, by constituencies, or by audiences
that can observe the tactic. Depending on whether these parties recognize the tactic and
whether they evaluate it as proper or improper to use, the negotiator may receive a great
deal of feedback. If the target person is unaware that a deceptive tactic was used, he or she
may show no reaction other than disappointment at having lost the negotiation. However, if
the target discovers that deception has occurred, he or she is likely to react strongly. People
who discover that they have been deceived or exploited are typically angry. In addition to
perhaps having “lost” the negotiation, they feel foolish for having allowed themselves to be
manipulated or deceived by a clever ploy. As a result of both the loss and embarrassment,
victims are inclined to seek retaliation and revenge. The victim is unlikely to trust the
unethical negotiator again, may seek revenge from the negotiator in future dealings, and
may also generalize this experience to negotiations with others. A strong experience of be-
ing exploited may thus sour a victim’s perception of negotiation contexts in the future (Bies
and Moag, 1986; Werth and Flannery, 1986).

These negative consequences were apparent in a study by McCornack and Levine
(1990), who examined people’s reactions to having been deceived (in many different types of
relationships, not necessarily negotiating ones). They found that victims had strong emotional
reactions to deception when they had an intimate relationship with the subject, when the in-
formation at stake was very important, and when they saw lying as an unacceptable type of
behavior for that relationship (i.e., when strong expectations of truth telling were clearly vio-
lated). In a majority of cases, the discovery of the lie was instrumental in an eventual termi-
nation of the relationship with the other person, and in most cases the termination was
initiated by the victim. The more the deception was serious, personal, and highly consequen-
tial for trust between the parties, the more destructive it was to the relationship. In a similar
vein, there is also evidence that individuals who are deceptive are regarded as less truthful and
less desirable for future interactions (Boles, Croson, and Murnighan, 2000). We will have
more to say about negotiator reputation in Chapter 10, but it is worth emphasizing here that
damage to one’s reputation can be difficult to repair. A study by Schweitzer, Hershey, and
Bradlow (2006) showed that the effects of untrustworthy actions on one’s credibility can be
remedied with subsequent truthful behavior, as long as the untrustworthy actions that breached trust did not involve deception. When deception was the cause of the rift, attempts to restore trust through an apology or other behavior apology were ineffective. In sum, although the use of unethical tactics may create short-term success for the negotiator, it may also create an adversary who is distrustful or, even worse, bent on revenge and retribution.

**Reactions of Self**  
Very little systematic research has explored the third set of consequences: the negotiator’s own reactions to the use of unethical tactics. Under some conditions—such as when the other party has truly suffered—a negotiator may feel some discomfort, stress, guilt, or remorse. This can lead a negotiator to seek ways to reduce the psychological discomfort. For example, Aquino and Becker (2005) found that individuals who had lied to their partner during the course of a simulated business negotiation made larger concessions later in the negotiation to compensate. This compensation for an earlier lie was especially common among study participants who rated themselves highly on “moral attributes” (e.g., honest, fairness, benevolence) and among those who told they were negotiating on behalf of an organization that “prides itself on being fair and honest in its business dealings.” Of course, negotiators who see no problem with using deceptive tactics may be inclined to use them again and may begin to ponder how to use them more effectively. In Aquino and Becker’s study, those who had no personal qualms about lying behaved no differently after lying than those who did not lie, meaning they were no more likely to compensate for the lie with a subsequent concession. On the one hand, although the use of ethically questionable tactics may have severe consequences for the negotiator’s reputation and trustworthiness, parties seldom appear to take these outcomes into consideration in the short term. On the other hand, and particularly if the tactic has worked, the negotiator may be able to rationalize and justify the use of the tactic. We explore these rationalizations and justifications in the next section.

**Explanations and Justifications**

When a negotiator has used an ethically ambiguous tactic that may elicit a reaction—as we described earlier—the negotiator must prepare to defend the tactic’s use to himself (e.g., “I see myself as a person of integrity, and yet I have decided to do something that might be viewed as unethical”), to the victim, or to constituencies and audiences who may express their concerns. The primary purpose of these explanations and justifications is to rationalize, explain, or excuse the behavior—to verbalize some good, legitimate reason why this tactic was necessary. Rationalization is often motivated by the desire to ease distress or dissonance over what the individual has just done (Aquino and Becker, 2005). There is an increasing stream of research on those who employ unethical tactics and the explanations and justifications they use to rationalize them. Most of the following rationalizations have been adapted from Bok (1978) and her excellent treatise on lying:

- **The tactic was unavoidable.** Negotiators frequently justify their actions by claiming that the situation made it necessary for them to act the way they did. The negotiator may feel that she was not in full control of her actions or had no other option; hence she should not be held responsible. Perhaps the negotiator had no intent to hurt anyone but was pressured to use the tactic by someone else.
• **The tactic was harmless.** The negotiator may say that what he did was really trivial and not very significant. People tell white lies all the time. For example, you may greet your neighbor with a cheery “Good morning, nice to see you” when, in fact, it may not be a good morning, you are in a bad mood, and you wish you hadn’t run into your neighbor because you are angry about his dog barking all night. Exaggerations, bluff, or peeking at the other party’s private notes during negotiations can all be easily explained away as harmless actions. Note, however, that this particular justification interprets the harm from the actor’s point of view; the victim may not agree and may have experienced significant harm or costs as a result.

• **The tactic will help to avoid negative consequences.** When using this justification, negotiators are arguing that the ends justify the means. In this case, the justification is that the tactic helped to avoid greater harm. It is OK to lie to an armed robber about where you have hidden your money to avoid being robbed. Similarly, negotiators may see lying (or any other means–ends tactic) as justifiable if it protects them against even more undesirable consequences should the truth be known.

• **The tactic will produce good consequences, or the tactic is altruistically motivated.** Again, the end justifies the means, but in a positive sense. As we stated earlier, a negotiator who judges a tactic on the basis of its consequences is acting in accord with the tenets of act utilitarianism—that the quality of any given action is judged by its consequences. Utilitarians may argue that certain kinds of lies or means–ends tactics are appropriate because they may provide for the larger good—for example, Robin Hood tactics in which someone robs from the rich to make the poor better off. In reality, most negotiators use deceptive tactics for their own advantage, not for the general good. In this case, others are likely to view these actions as less excusable than tactics that avoid negative consequences.

• “**They had it coming,**” or “**They deserve it,**” or “**I’m just getting my due.**” These are all variations on the theme of using lying and deception either against an individual who may have taken advantage of you in the past or against some generalized source of authority (i.e., “the system”). Polls have noted an erosion of honesty in the United States—people increasingly think it appropriate to take advantage of the system in various ways, including tax evasion, petty theft, shoplifting, improper declaration of bankruptcy, journalistic excesses, and distortion in advertising (e.g., Patterson and Kim, 1991; Yankelovich, 1982).

• “**They were going to do it anyway, so I will do it first.**” Sometimes a negotiator legitimizes the use of a tactic because he or she anticipates that the other intends to use similar tactics. Investigating Brazilian and American negotiators, Volkema and Fleury (2002) found that people were most willing to use deception when negotiating with a partner who had a reputation for being unethical. In other words, individuals who expect their partner to behave unethically were more likely to match that behavior. In an insightful study, Tenbrunsel (1998) also linked one’s own inclination to deceive and judgments of the other party’s integrity. She found that the more an individual was tempted to engage in misrepresentation, the more he or she believed that the other would also misrepresent information. Thus, one’s own temptation to misrepresent creates a self-fulfilling logic in which one believes one needs to misrepresent because the other is likely to do it as well. At the same time,
subjects in this study consistently rated themselves as more ethical than the other party, which suggests that people experience some combination of positive illusions about themselves and their own behavior, and negative illusions about the other and the other’s likely behavior.

- “He started it.” This is a variation on the anticipatory justification discussed in the last point. In this case, the rationale is that others have already violated the rules, therefore legitimizing the negotiator’s right to violate them as well. In such cases, unethical tactics are employed in a tit-for-tat manner, to restore balance, or to give others their due. Justifications such as “An eye for an eye” or “He started it and I’m going to finish it!” are commonly heard as a defense for resorting to unethical tactics in these cases.

- The tactic is fair or appropriate to the situation. This approach uses a kind of moral (situational) relativism as a rationale or justification. Most social situations, including negotiations, are governed by a set of generally well-understood rules of proper conduct and behavior. For example, recall the earlier arguments of Carr (1968), that business is a game and that the game has a special ethos to it that legitimizes normally unethical actions. Bowie (1993) and Koehn (1997) have countered these arguments, contending that deceit in business is just as immoral as it is in other areas of life and that the game analogy of business no more legitimizes unethical conduct than other analogies. As a general matter, ethical relativism—the idea that moral standards shift with changing circumstances—frequently comes under fire as an unacceptable take on morality. As Hosmer (2003, p. 89) puts it, “If all ethical systems are equally valid, then no firm moral judgments can be made about individual behavior, and we are all on our own to do as we like to others, within economic limits and legal constraints.” We leave it to the reader to decide if this is a good thing or a bad thing.

Research by Shapiro (1991) shows that these kinds of explanations matter in mitigating a victim’s reactions to having been deceived. Her experimental subjects were supposedly working together to apply for a loan to support a new business venture. In the course of the simulation, subjects were told that the loan officer had caught their partner falsifying information on the loan application. The experimenter then manipulated the severity of the consequences for being caught in the deception (how much the subject lost as a result of the partner’s deception), as well as how adequately the partner explained why the deception had occurred (the deception was unintentional, or selfishly motivated, or altruistically motivated). The findings indicate that the more a subject felt that the partner’s explanation was adequate for the deception, the less he or she expressed feelings of injustice, disapproval, and punitiveness toward the partner. If subjects were mildly upset, the explanations had more impact than if the subjects were strongly upset. Moreover, explanations had the most impact when the partner stated that the deception was unintentional, less impact when the deception was altruistic, and the least impact when the deception was selfishly motivated.

As self-serving rationalizations for one’s own conduct, explanations allow the negotiator to convince others—particularly the victim—that conduct that would ordinarily be wrong in a given situation is acceptable. Explanations and justifications help people rationalize the behavior to themselves as well. But there is a risk: we surmise that the more frequently negotiators engage in this self-serving process, the more their judgments about ethical standards and values will become biased, diminishing their ability to see the truth
for what it is. The tactics involved may have been used initially to gain power in a negotiation, but negotiators who use them frequently may experience a loss of power over time. These negotiators will be seen as having low credibility or integrity, and they will be treated accordingly as people who will act exploitatively if the opportunity arises. Good reputations are easier to maintain than to restore once damaged.

What Factors Shape a Negotiator’s Predisposition to Use Unethical Tactics?

Earlier we talked about the use of ethically ambiguous tactics in terms of the simple model presented in Figure 9.2. This model describes a rational calculation process in which the negotiator selects a tactic, uses the tactic, evaluates the consequences, and attempts to manage the consequences (if the tactic is detected) through explanations and justifications. A number of other factors can affect the sequences described in the model:

- The background and demographic characteristics of the negotiators.
- The personality characteristics and level of moral development of the negotiators.
- Elements of the social context (the situation in which the negotiators find themselves) that encourage or discourage unethical conduct.

In this section, we briefly mention how each of these factors might influence the predisposition to use ethically questionable tactics. The factors are included in an expanded version of the model, presented in Figure 9.3. As we discuss this model, it should be clear that the fundamental debate here is the “nature versus nurture” argument about what causes individuals to behave as they do. Many believe that making ethical decisions is completely determined by the moral standards of the individual actor; others, however, believe that situational factors (such as group and organizational norms, accountability pressures, and reward systems) can cause even ethical people to do unethical things. We expect the debate to continue for a long time. However, when social scientists try to hold individual differences constant, or randomize them across large groups of people, it is very clear that situational influences can predispose very ethical people to do marginally ethical things.

Demographic Factors

A number of survey-oriented studies on ethical behavior have attempted to relate differences in ethical conduct to differences in individual background, religious orientation, age, gender, nationality, and education. In general, these broad demographic studies have shown that individuals who are older or have a stronger commitment to some religious philosophy are less likely to behave unethically than younger or less religious individuals (e.g., Hassett, 1981). A few studies have investigated the relationship between demographic factors and the use of unethical tactics in negotiation. In reporting these research findings, we are not suggesting that all people of a particular group will necessarily act in a specified manner. Thus, for example, studies that show that young people tend to use more deceptive negotiating tactics than other people do not imply that every young person will use those tactics. We discuss these demographics because the trends appear to be reliable and consistent across a number of different ethical choice situations.
A More Complex Model of Deception in Negotiation

**Individual Differences**
Demographic Factors
Personality Characteristics
Moral Development

**Contextual Influences**
Past Experience
Incentives
Relationship to Opponent
Relative Power Between Negotiators
Mode of Communication
Acting as an Agent
Group and Organizational Norms
National Culture Norms

**Intentions and Motives for Using Deceptive Tactics**

**Use Deceptive Tactics**

**Selection and Use of Deceptive Tactic(s)**

**Consequences**
1. Impact of Tactic: Does It Work?
2. Self-evaluation
3. Feedback and Reaction From other Negotiator, Constituency, and Audiences

**Explanations and Justifications**
Sex  A number of studies have shown that women tend to make more ethically rigorous judgments than men. For example, Volkema (1999) found in comparing Brazilian and American women that those from both cultures were significantly more ethical than men, revealing less willingness to use ethically ambiguous negotiation tactics. Dawson (1997) asked men and women to respond to a number of decision-making scenarios involving ethics. Half the scenarios were relational, in that the actor’s decision clearly affected the interests of others, while the other half were nonrelational, in that the consequences did not affect anyone else and were only matters of individual conscience. Dawson’s results demonstrate that when making decisions about relational issues, women were significantly more ethical than men, but that there were no differences on the nonrelational situations. Hence, according to this study, women may make more ethical judgments, but only when the consequences of their decisions affect someone else.

Returning to the ethically ambiguous tactics described earlier in this chapter, Lewicki and Robinson (1998) and Robinson, Lewicki, and Donahue (2000) found that men were more likely to use some unethical tactics than women. This did not hold for tactics classified as “traditional competitive bargaining” (e.g., making an excessively high opening offer and stalling for time); there was no gender difference in the perceived appropriateness of these aggressive (but not deceptive) tactics.

However, a more recent study suggests differences may exist in the way that men and women are perceived as ethical decision makers. Schminke, Ambrose, and Miles (2003) created scenarios that described an individual (male or female) faced with an ethical dilemma, and they had participants rate their perceptions of that action as well as the ethical framework that the actor employed. Overall, female actors were perceived to be formalistic in their decision—they were thought to pay more attention to rules or principles than actual outcomes of the situation. In contrast, male actors were perceived to be more utilitarian—to give greater attention to net social good rather than rules or principles.

Age and Experience  In the Dawson (1997) and Volkema (1999) studies cited earlier, both men and women behaved more ethically as they aged. In the Anton (1990) study, where categories of deceptive tactics were rated, older parties tended to see bluffing as more acceptable and deception as less acceptable. Finally, Robinson, Lewicki, and Donahue (2008) report a strong negative correlation between age and the endorsement of unethical negotiating tactics. Overall, older individuals were less likely than younger ones to see marginally ethical tactics as appropriate. Moreover, they reported that individuals with more general work experience, and with more direct work experience, were less likely to use unethical negotiating tactics.

Professional Orientation  Anton (1990) compared ratings by MBA students, business alumni, and clergy of perceived appropriateness of categories of deceptive negotiation tactics. All groups indicated that traditional competitive bargaining and misrepresentation were ethically acceptable, but clergy were the most ethically conservative in their ratings. Deception was seen as moderately unethical, and all groups believed that outright falsification was highly unethical. Garcia, Darley, and Robinson (2001) conducted an interesting study of district attorneys and public defenders and their use of these tactics. They found that public defenders saw ethically ambiguous tactics as more appropriate than district attorneys.
attorneys, that both groups increased their approval of the tactics when they thought the other party was likely to use them, and that public defenders increased their approval as a “defensive move” more than district attorneys. Thus, these findings are actually more about which role a person plays—defender versus challenger of the status quo—than about the attorney role that they play.

Nationality and Culture It is apparent that there are cultural differences in attitudes toward ethically ambiguous tactics in negotiation, although there are not enough research findings to create a coherent overall picture. Here are some of the findings (drawn from Elahee and Brooks, 2004; Lewicki and Robinson, 1998; Sims, 2002; Volkema, 1997, 1998, 1999; Volkema and Fleury, 2002):

- Americans and Asians were significantly more likely to use bluffing, and Eastern Europeans were less likely to do so.
- Students with a Middle Eastern heritage were more likely to endorse misrepresentation to an opponent’s network, and Americans were less likely to do so.
- Managers from the United States and Brazil both rated traditional competitive bargaining tactics as acceptable, but managers from Brazil were more likely to rate other ethically ambiguous tactics involving deception or subterfuge as acceptable.
- Managers from the United States and Brazil were similar in their use of tactics involving third parties (e.g., information gathering or disseminating information through a network), but Brazilians were willing to be more deceptive in dealing with their immediate opponent.
- Mexican managers saw the same tactics as less appropriate than American managers did.
- People in a more individualistic culture (the United States) were more likely to use deception for personal gain than people in a more collectivist culture (Israel).
- Negotiators were more likely to endorse the use of ethically ambiguous tactics when negotiation with someone from another country than with someone from the same country.

The difficulty is knowing what to do with the information that comes from these research findings. Clearly there are cultural differences in perceptions of what is or isn’t appropriate in negotiation—differences that we can uncover statistically in a research study looking at many individuals. But it is just as clearly hazardous—and wrong—to assume that because a researcher can find a cultural trend in a sample of many individuals that any one individual would actually behave in a certain way.

Not everyone acts in ways that are culturally representative; in fact, some negotiators may go out of their way to avoid doing so. An American attorney we know who negotiates business deals in Latin America tells us he has noticed that some Mexican negotiators he meets with will adopt an extreme U.S. style of interaction rather than exhibit communication patterns that are “typical” of Mexico, presumably to adapt to the American counterpart across the table. When it comes to negotiator ethics, differences across cultures may be a function not so much of different beliefs about ethics per se, but rather variations in the role of personal relationships in different societies. Rivers and Lytle (2007) illustrate this point: “A Chinese negotiator may not realize that a Western counterpart does not share their view of the importance of obligation to a friend and may be perplexed to be labeled ‘unethical’
People who conduct business in countries other than their own encounter not only different languages but different cultural mores and practices as well. They may find that local business practices reflect ethical standards that are dictated by cultural norms that are dissimilar to their own. Such a situation can lead to an ethical dilemma: Which system of ethics should guide the interaction? Is it more appropriate to adopt the ethical system of the host country or to remain true to one’s own ethical standards? Henry Lane, Joseph DiStefano, and Martha Maznevski argue that there are some guidelines for decision makers that bridge cultural differences. They offer this list of general advice that can guide businesspeople through interactions in a variety of cultural settings:

1. **Identify the stakeholders that have an interest in or will be affected by the decision.** This might include the home-country or host-country governments, suppliers, employees, unions, and customers. What are your responsibilities and obligations to each of these stakeholders?

2. **Ask yourself whether you have the best information possible and whether it is reliable.**

3. **Do not avoid making ethical decisions that are your responsibility, but also do not accept responsibility for decisions that are not your responsibility.**

4. **Enter into dependent relationships with care. Be certain that you retain enough power to maintain your own standards.**

5. **Do the best for all involved stakeholders, fulfill your obligations, observe laws and contracts, do not use deception, and avoid knowingly doing harm (physical, psychological, economic, or social).**

6. **Remember the “billboard” or “light-of-day” test: when you drive to work tomorrow morning, would you be happy to see your decision on a billboard at the side of the road? Would your action appear reasonable then?**


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**Ethical Guidelines for International Business**

...when they are acting honorably within their ethical principles, and offer gift money to establish a stronger relationship. . . . Judging actions used by a culturally different other party as ‘unethical’ can elicit potent negative responses in a negotiator” (p. 23).

The complications involved in understanding ethics in cross-cultural negotiation are illustrated in Box 9.3. We return to a richer treatment of cross-cultural differences in Chapter 16.

**Personality Differences**

Researchers have sought to identify dimensions of personality that would successfully predict a person’s predisposition to behave unethically. Selected findings are described next.

**Competitiveness versus Cooperativeness** Lewicki and Robinson (1998) found that students who rated themselves as aggressive were significantly more likely to use bluffing, misrepresentation, and a variety of other dishonest tactics than students who rated themselves as cooperative. Similarly, Robinson, Lewicki, and Donahue (2000) report that students who rated themselves as competitive were significantly more likely to use ethically ambiguous tactics than those who rated themselves as cooperative. It is also not surprising that individuals are more likely to lie to a competitor (Ross and Robertson, 2000).
Steinel and de Dreu (2004) examined how an individual’s “social value orientation” influences his or her use of deceptive tactics using a mixed-motive decision game that resembles a prisoner’s dilemma game. Social value orientations are preferences people have for acting cooperatively (a “pro-social” orientation) or competitively (a “pro-self” orientation) in a given situation. Not surprisingly, pro-social individuals in Steinel and de Dreu’s study were more honest with a cooperative partner than were pro-self individuals. Interestingly, when interacting with a competitive partner, pro-social individuals used even more deceptive tactics than did pro-self actors. The researchers attributed this odd inconsistency to an “overassimilation” on the part of pro-social individuals. In other words, their reaction to competitive parties might have been a punitive effort to hold the other party responsible for his or her competitive orientation.

**Machiavellianism**  In Chapter 15, we discuss the personality variable called Machiavellianism. Machiavellians adhere to a pragmatic and expedient view of human nature—“The best way to handle people is to tell them what they want to hear” or “It is hard to get ahead without cutting corners here and there.” A number of studies have shown that individuals who are high in Machiavellianism are more willing and able con artists, more likely to lie when they need to, better able to tell a lie without feeling anxious about it, and more persuasive and effective in their lies (Christie and Geis, 1970). Machiavellianism thus appears to be a predictor of unethical conduct.

**Locus of Control**  Individuals differ in their locus of control—that is, the degree to which they believe that the outcomes they obtain are largely a result of their own ability and effort (internal control) versus fate, chance, or circumstance (external control). Studies have generally predicted that individuals who are high in internal control are more likely to do what they think is right (i.e., they have a stronger personal value system or ethical code) and to feel that they had more control over producing the outcomes they wanted to achieve in a situation in which there were temptations to be unethical. Evidence from studies of cheating and ethical decision making has supported this prediction (Lefcourt, 1982; Trevino and Youngblood, 1990), although it is important to note that locus of control seems most important when individuals can also exert control over outcomes. Thus, locus of control appears to be a moderately powerful contributor to ethical decision making, although it has yet to be tested as a factor in tactic selection in negotiation. We discuss its role in negotiation more generally in Chapter 15.

**Moral Development and Personal Values**

Many researchers have explored the relationship of an individual’s level of moral development to ethical decision making. Kohlberg (1969) proposed that an individual’s moral and ethical judgments are a consequence of achieving a particular developmental level or stage of moral growth. Kohlberg proposed six stages of moral development, grouped into three levels:

1. A preconventional level (Stages 1 and 2), where the individual is concerned with concrete outcomes that meet his or her own immediate needs, particularly external rewards and punishments.
2. A conventional level (Stages 3 and 4), where the individual defines what is right on the basis of what his immediate social situation and peer group endorses or what society in general seems to want.

3. A principled level (Stages 5 and 6), where the individual defines what is right on the basis of some broader set of universal values and principles.

The higher the stage people achieve, the more complex their moral reasoning should be and the more ethical their decisions should be. In addition, there may be gender-related differences in this ethical reasoning process—as noted earlier, women’s ethical reasoning may be more relational and less individualistic than men’s (Gilligan, 1982).

Many studies have demonstrated the power of measuring ethical orientation in this way (see Trevino, 1986; and Trevino and Youngblood, 1990, for reviews). The results have generally indicated that higher levels of moral development are associated with more ethical decisions, less cheating behavior, more helping behavior, and more resistance to authority figures who are attempting to dictate unethical conduct. Other studies have investigated value differences, defined more broadly. Glover, Bumpus, Logan, and Ciesla (1997) report on an extensive study of honesty/integrity and other values such as achievement, fairness, and concern for others on ethical decision making. In their study, fairness and achievement selectively predicted some ethical decisions, while honesty did not predict any ethical choices. These mixed findings are reasonably consistent with the growing literature that attempts to measure individual values and morality and relate them to ethical decisions. We are unaware of any studies examining the specific relationship between moral development and tendencies to use deceptive negotiating tactics.

**Contextual Influences on Unethical Conduct**

The last set of factors that should influence a negotiator’s willingness to act unethically are contextual factors. We briefly examine a number of contextual elements: the negotiator’s past experience with using unethical tactics, incentives to use the tactics, characteristics of the other party, the quality of the relationship with the other party, differences in power and status between the parties, modes of communication, whether a negotiator is acting as the principal actor or an agent, and the social norms that govern the negotiation process.

**Past Experience** At least one study has shown that the simple impact of past experience—particularly failure—can increase the likelihood that a negotiator might attempt to use unethical tactics. Schweitzer, Ordonez, Douma (2004) gave students different kinds of goals (do your best, meet a specific goal, or exceed a specific goal), then asked them to solve puzzles and manipulated their success or failure at the puzzle task. First, having specific goals clearly influenced reporting of accomplishment; if told to “do your best,” parties reported more honestly than if they had a specific goal to meet. Participants who had to meet specific goals were more likely to overstate their productivity than those who did not have specific goals, were more likely to overstate their success when their actual performance was closer to the goal, and were more likely to overstate in those situations where they thought they “deserved” the reward based on overall productivity.
Role of Incentives  A second factor that can influence a negotiator’s tendency to use ethically ambiguous tactics is the role of incentives in place in a given situation. Tenbrunsel (1998) demonstrated that greater incentives influenced a negotiator’s inclination to misrepresent to the other party, and they also enhanced the negotiator’s expectation that the other party would misrepresent. However, it is difficult to determine whether the negotiator’s heightened sensitivity to misrepresentation was due to an expectation that the other was going to misrepresent or was because the negotiator intended to misrepresent himself.

Characteristics of the Other Party  Negotiators may not necessarily plan to use deceptive or ethically ambiguous behavior during a negotiation, but may do so when it is perceived that the other party is vulnerable to such tactics. The work of Olekalns and Smith (2007) suggests that negotiators often use these tactics opportunistically. When a partner was perceived as benevolent, trustworthy, or having integrity, a negotiator was more likely to deceive him or her by omitting or misrepresenting information. The authors argued that this pattern may represent opportunistic betrayal, whereby negotiators use ethically ambiguous tactics because the potential cost of detection or punishment from the other party are low. Ironically, the authors also found that information was misrepresented more often when the other party was perceived as powerful. Power, in this context, was not defined as relative power, but rather as having a powerful disposition. In this circumstance, deception may not have been used opportunistically, but rather defensively. Olekalns and Smith argued that the perceived risk of exploitation is higher when the other party is powerful; hence the decision to distort information may be seen as a way of leveling the playing field.

Relationship between the Negotiator and the Other Party  Two aspects of the negotiator’s relationship with the other party affect the tendency to use certain tactics: what the relationship has been like in the past and what the parties would like it to be in the future. The negotiators’ past relationship will affect current behavior if the parties have been previously competitive or cooperative, are friends or enemies, feel indebted to each other, or hold grudges toward each other. For example, research by Gruder (1971) showed that negotiators were likely to make deceptive arguments, negotiate for a longer period of time, and make fewer concessions when they had previously experienced the other party as exploitative than when the other party had been cooperative. Similarly, Schweitzer (1997) demonstrated that students were more likely to lie to strangers than they were to friends, and they were particularly more likely to lie to strangers who did not ask any probing questions. An analogous argument can be made for a negotiator’s expectations about how the other party will behave in the present or future. If you view the other party with suspicion—as exploitative, competitive, dishonest—you can then justify a relativistic approach to strategy and claim that anticipatory self-defense legitimizes your actions. However, you can see how this form of rationalization may be easily distorted by fear and suspicion and hence create a self-fulfilling prophecy to justify use of an unethical tactic. All a negotiator needs is to experience some mildly competitive or exploitative bit of behavior from the other party, or even to imagine that it is going to occur. Naturally, this will motivate the other party to seek revenge and act exactly as the negotiator anticipated.

A factor that can balance this self-fulfilling dynamic is whether the negotiator expects the relationship to be short term or long term. In the Lewicki and Spencer (1991) study
discussed earlier, participants were told to expect either a short-term or long-term working relationship with the other party. Participants who expected to be in a short-term relationship were more likely to see ethically ambiguous tactics as appropriate than those expecting a long-term relationship, regardless of their own and the other party’s motivations. This is consistent with research showing that the prospect of future negotiations with an individual is an important motivator to act ethically during negotiations (Volkema and Fleury, 2002). Taken together these are important findings, indicating that negotiators are more willing to use ethically precarious tactics if they do not anticipate having to live with the consequences of doing so.

**Relative Power between the Negotiators** Another key situational factor is relative power—how much power one negotiator has relative to the other party. We discussed the link between power and ethics earlier in this chapter, observing that negotiators use deception as a way to gain temporary information power over the other party. In general, negotiators with relatively more power are more likely to use unethical tactics. For example, in one research study, negotiators with more power bluffed more often and communicated less with their counterpart than those with less power (Crott, Kayser, and Lamm, 1980). This result will seem paradoxical to some people. Why should negotiators with more power, who can presumably get what they want by using their power legitimately, use unethical tactics that increase their power even more? The answer may lie in an “intoxication” theory of power, which holds that power corrupts the thinking of the powerful; results confirming the theory have been consistently observed both in laboratory research and in the power dynamics between “haves” and “have nots” in society. A balance of power should lead to more ethical conduct than an imbalance does. (In Chapter 19, we investigate the role of third parties, such as mediators, who often must address power differences between disputants to produce a level playing field.)

**Mode of Communication** Major changes in technology have affected the way negotiators can communicate with each other. As we discussed in Chapter 6, the evolution of e-mail, texting, instant messaging, and teleconferencing provides parties more ways to communicate back and forth than ever before (see Lewicki and Dineen, 2002, for a review of the overall impact of “virtuality” on negotiation). There is evidence that deception is viewed differently when it occurs over e-mail compared with other modes of communication (Zhou, Burgoon, Nunamaker, and Twitchell, 2004). The relevant question for us here is whether negotiators are more or less likely to use ethically ambiguous tactics when they are physically removed from each other (using phone, e-mail, voicemail, or instant messaging) than when they are face to face. Research thus far points to mixed results. Schweitzer, Brodt, and Croson (2002) suggest that negotiators lie more in face-to-face situations because they want to be able to monitor the other party’s reactions—to make sure that the “lie” is having its intended effect. Yet others have argued that interpersonal bonds are weaker (Friedman and Currall, 2003) and there is less trust and more suspicion (Fortune and Brodt, 2000) among negotiators when they are not face to face. Face-to-face situations compel a negotiator to be more honest and cooperative because of the personal and emotional consequences of being caught in a lie in the face-to-face context (Thompson, 1998). Interestingly, though, it is plausible that e-mail is an advantageous medium when moral or ethical matters are themselves the actual subject of discussion. That’s because an e-mail “conversation” features fewer interruptions,
offers more time for reflection, and incorporates fewer emotional behaviors (van Es, French, and Stellmaszek, 2004). Clearly, more work is necessary on the intersection between negotiation ethics and communication channels to refine these ideas.

**Acting as an Agent versus Representing Your Own Views**  
Acting as an agent for another party often puts you in a different ethical frame of mind than negotiating for yourself. As one author has put it,

> Many negotiators fail to understand the nature of negotiation and so find themselves attempting to reconcile conflicts between the requirements of negotiation and their own sense of personal integrity. An individual who confuses private ethics with business morality does not make an effective negotiator. Those who serve as agents in a negotiation must learn to be objective and to subordinate their own personal goals to the prime purpose of securing the best possible deal for their constituents. (Beckman, 1977, quoted in Lax and Sebenius, 1986, p. 363)

As we point out in Chapter 11, negotiators frequently find themselves representing others’ views in negotiation rather than negotiating for their own personal goals and interests. A number of authors have suggested that when people act as an agent for someone else—particularly when the goals for that agent are to get the best possible agreement—they may be more willing to violate personal ethical standards (Bowie and Freeman, 1992). In essence, acting as an agent may release people from their own personal ethical code and allow them to create their own standard of legitimacy—that it is appropriate to do whatever is necessary to maximize the results for the constituent.

**Group and Organizational Norms and Pressures**  
Many negotiators look to the social norms of a particular situation to decide how to behave. Norms are the informal social rules—the dos and don’ts—that govern social behavior. Research suggests that group and organizational norms and pressures may play a key role in legitimizing inappropriate behavior (although, again, this research has not specifically involved negotiating situations). Here are some key findings and observations:

- Studies have shown that different companies can have distinctly different ethical climates or cultures (Jackall, 1988; Victor and Cullen, 1988). Companies differ in how they value and endorse ethical conduct or appear to condone and tolerate marginally ethical behavior in the service of achieving corporate objectives at any price.
- A company as a whole may have a strong statement of corporate ethics and values, but job-related pressures within particular work groups, departments, or divisions may be such that ethically ambiguous behavior is not only tolerated but even condoned. The actions and practices of key managers within work groups or departments play a large role in determining what employees believe appropriate behavior (see Dineen, Lewicki, and Tomlinson, 2004, for one study; and Murphy, 1992, for a broader review). The more loyalty and commitment people feel toward an organization, the more likely they may be to suspend their own ethical judgment and engage in any and all behavior—even unethical or illegal behavior—to demonstrate that loyalty.
- Norms have to be “salient”—that is, immediate and relevant to the negotiator—to have an impact. In a study of the impact of ethical climate on negotiations, Aquino (1998)
Many corporations publish, for their employees and stakeholders, guides to what they regard as ethical business conduct or practice. It is not unusual for these corporate “codes of conduct” to mention negotiation practices, usually in connection with relationships with suppliers and customers. On the subject of negotiation, these codes typically do not go into the nuances of negotiator ethics as we have been discussing them in this chapter. Mostly they stick with sweeping statements that assert, in effect, “we are fair and honest.” Here are a few examples from large U.S. companies.


At Pfizer, we are committed to fair competition. This means, among other things, abiding by all laws that apply to our marketing activities. Under these laws, it is illegal to use unfair methods of competition or unfair or deceptive acts or practices in commerce. This prohibition includes, but is not limited to: false or misleading advertising, or any other form of misrepresentation made in connection with sales.


If you are involved in proposals, bid preparations, or contract negotiations, you must be certain that all statements, communications, and representations to prospective customers are accurate and truthful.


Wal-Mart bases its relationships with suppliers on lawful, efficient and fair business practices. . . . You must treat Wal-Mart suppliers with respect, fairness and honesty and not take undue advantage of a supplier by using Wal-Mart’s business influence.


Consistent with the obligation we all have to act with integrity and honesty at all times, you should deal fairly with the Company’s customers, suppliers, competitors and employees. No director, officer or employee should take unfair advantage of anyone through misrepresentation or any unfair business practice.

showed that when specific ethical standards were made salient and relevant to negotiators, the use of deception by negotiators diminished, and more ethical agreements ensued. Similarly, Ross and Robertson (2000) found that individuals were less likely to lie when their organization provided clear ethical guidelines about behavior. (Many corporations do provide guidelines on ethical behavior for their employees, although their coverage of ethics in negotiation rarely goes beyond broad statements touting the importance of honesty; see Box 9.4 for some examples.)

The pressure to obey authority is very strong, as anyone who has read about Stanley Milgram’s famous obedience experiments will recall (Milgram, 1974). Such pressure is real in organizations, and social scientists have documented how thoroughly it can undermine individual integrity (e.g., Brief, 1992; Kelman and Hamilton, 1989). Moreover, the more complex an individual’s moral reasoning capability, the more he or she perceives conflict between personal standards and typical organizational demands (Mason and Mudrack, 1997). In its most extreme forms, organizational pressure leads individuals to commit egregious crimes against humanity, such as the Holocaust during the 1940s, or the infamous My
Making Ethical Decisions: Six Questions

Making decisions in situations involving ethics may require a quick response to a complex set of issues. Author and consultant Michael Rion argues that managers can benefit from having at hand an efficient way of thinking through these kinds of situations. His system of guidelines for ethical decision making is built around asking yourself a series of questions about the situation at hand:

- Why is this situation bothering me?
- Who else matters in this situation and how are they affected by it?
- Is it my responsibility? What are my obligations?
- What is the ethical issue here (role of law/fairness/honesty/etc.)?
- What would others say about this situation?
- Am I being true to my values and those of my organization?

Source: Adapted from M. Rion, *The Responsible Manager: Practical Strategies for Ethical Decision Making* (West Hartford, CT: Resources for Ethics and Management, 1999).

Lai massacre in 1968 during the Vietnam war, or the events at the Abu Ghraib prison in Iraq in the early 2000s. Other authors (e.g., Street, Robertson, and Geiger, 1997) have argued that the pressures of escalating commitment, which (as we noted in Chapter 5) involve pressures to throw good money after bad or increase commitment to a failing course of action, may also predispose parties to commit ethically dubious actions that they might otherwise avoid.

**Summary**  
Research shows that a number of social forces can encourage negotiators to suspend their own personal and ethical standards and commit acts that are ethically questionable. These forces include:

- Acting as an agent for others and responding to their pressures to achieve.
- Viewing business dealings—such as negotiation—as a game (like poker or war) and therefore assuming that the rules of the game are the ones that should be applied.
- Being a member of a group, department, team, or organizational unit that values success and tolerates or even encourages bending or breaking the rules in order to achieve that success.
- Being so loyal to a group or organization that you are willing to do something you would not do as an individual, or convincing yourself that it is permissible to break the rules in order to be rewarded for your loyalty.
- Being willing to follow the direct or implied orders of senior officials in the organization who tell you to get a job done and not worry about how it gets done.

Any of these forces appear to be sufficient, under the right circumstances, to permit individuals to suspend their own good moral judgment in the service of doing what the organization appears to need, want, or request. Combining them can produce an even more lethal concoction of social pressures that permits people to rationalize their actions and do whatever is necessary. See Box 9.5 for a way to grapple with ethical dilemmas that arise unexpectedly.
How Can Negotiators Deal with the Other Party’s Use of Deception?

People lie—quite frequently, in fact (Adler, 2007)—so a chapter such as this would be incomplete without briefly noting some of the things that you can do as a negotiator when you believe the other party is using deceptive tactics. (We will return to this issue in Chapter 17, when we examine a wide range of strategies for damage control. Table 9.3 presents some verbal strategies for trying to determine if others are being deceptive. And what if they are? Here are some options:

**Ask Probing Questions**  Many negotiators fail to ask enough questions, yet asking questions can reveal a great deal of information, some of which the negotiator might otherwise have intentionally left undisclosed (Schweitzer, 1997; Schweitzer and Croson, 1998). In an experimental simulation of a negotiation over the sale of a computer (Schweitzer and Croson, 2002), buyers were either strongly prompted to ask questions of the seller about the condition of the computer, or not prompted to ask questions. Across the board, asking questions about the condition of the computer reduced the number of the seller’s deceptive comments (lies of commission). However, under some conditions, asking questions also increased the seller’s use of lies of omission about other aspects of the computer. Thus, while questions can help a negotiator determine whether another is being deceptive, cross-examination may actually increase the seller’s tendency to be deceptive in areas where questions are not being asked. (Refer back to Chapter 6 for a more extensive examination of asking good questions.)

**Phrase Questions in Different Ways**  Robert Adler (2007), a scholar in law and ethics, points out that what negotiators engaged in deception are usually doing is not outright lying (which risks liability for fraud); instead, “they dodge, duck, bob, and weave around the truth, assuming that their statements will be misconstrued or not challenged” (p. 72). A question posed a certain way may elicit an answer that is technically true, but skirts the actual truth the questioner seeks to uncover. Consider this example: as a prospective house buyer I ask, “How is the heating system?” and the seller replies, “It works fine,” so I draw the conclusion that there’s no problem. Alternatively, I could have asked, “When was the last time the heating system was inspected, and what was the result?” (and perhaps gone even further and asked for written documentation of the inspection). I might learn that although the system is in reasonable working order at the moment (“it works fine”), the inspection revealed it’s on its last legs and will need replacement within the next year. Different question, different answer, and less of an evasion.

**Force the Other Party to Lie or Back Off**  If you suspect the other party is being cagey or deceptive about an issue but is not making a clear statement in plain language, pose a question that forces him or her to tell a direct lie (if the assertion is false) or else abandon or qualify the assertion. For instance, if the seller of a piece of property alludes to other interested buyers and implies there are other offers, ask a question about other offers in a clear way that calls for a yes or no answer. This can be a useful strategy because, as we noted earlier, research shows people are more inclined to lie by omission than by commission. Some people
TABLE 9.3 | Detecting Deception

Researchers have identified a number of verbal tactics that you can use to determine whether the other party is acting deceptively.

<table>
<thead>
<tr>
<th>Tactic</th>
<th>Explanation and Examples</th>
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<tbody>
<tr>
<td>Intimidation</td>
<td>Force the other to admit he is using deception by intimidating him into telling the truth. Make a no-nonsense accusation of the other. Criticize the other. Hammer the other with challenging questions. Feign indifference to what he has to say (&quot;I'm not interested in anything you have to say on the matter&quot;).</td>
</tr>
<tr>
<td>Futility portrayal</td>
<td>Emphasize the futility and impending danger associated with continued deceit: “The truth will come out someday,” “Don't dig the hole deeper by trying to cover it up,” “If you try to cover it up, it will only be worse in the future,” “You are all alone in your deception.”</td>
</tr>
<tr>
<td>Discomfort and relief</td>
<td>State the maxim, “Confession is good for the soul.” Help the other reduce the tension and stress associated with being a known deceiver.</td>
</tr>
<tr>
<td>Bluffing</td>
<td>Lie to the other to make her believe you have uncovered her deception: “Your sins are about to be uncovered.” Indicate that you know what she knows but will not discuss it.</td>
</tr>
<tr>
<td>Gentle prods</td>
<td>Encourage the other to keep talking so that he gives you information that may help you separate true facts from deceptions. Ask him to elaborate on the topic being discussed. Ask questions but indicate that you are asking because “other people want to know.” Play devil's advocate and ask playful questions. Praise the other so as to give him confidence and support that may lead to information sharing.</td>
</tr>
<tr>
<td>Minimization</td>
<td>Play down the significance of any deceptive act. Help the other find excuses for why she was deceptive; minimize the consequences of the action; indicate that others have done worse; shift the blame to someone else.</td>
</tr>
<tr>
<td>Contradiction</td>
<td>Get the other to tell his story fully in order to discover more information that will allow you to discover inconsistencies and contradictions in his comments or reports. Point out and ask for explanations about apparent contradictions. Ask the speaker the same question several times and look for inconsistencies in his response. Present contradictions back and ask the speaker to explain. Put pressure on the speaker and get him to slip up or say things he doesn't want to say.</td>
</tr>
<tr>
<td>Altered information</td>
<td>Alter information and hopefully trick the other into revealing deception. Exaggerate what you believe is the deception, hoping that the other will jump in to “correct” the statement. Ask the suspected deceiver a question containing incorrect information and hope she corrects you.</td>
</tr>
<tr>
<td>A chink in the defense</td>
<td>Try to get the other to admit a small or partial lie about some information, and use this to push for admission of a larger lie: “If you lied about this one little thing, how do I know you have not lied about other things?”</td>
</tr>
<tr>
<td>Self-disclosure</td>
<td>Reveal a number of things about yourself, including, perhaps, dishonesty on your own part, hoping the other will begin to trust you and reciprocate with disclosures of dishonesty.</td>
</tr>
</tbody>
</table>
How Can Negotiators Deal with the Other Party’s Use of Deception?

are comfortable being cagey or misleading, but they will run headlong into their conscience if forced to flatly lie while looking someone in the eye. Conscience aside, this kind of question may also make the other party nervous about liability for fraudulent negotiator behavior. Hence the timely use of a sharp, direct question will induce some adversaries to back off rather than fib to your face. (Granted, the pathological liar may well rise to the challenge.)

Test the Other Party  Not sure if the other party is the kind of person who would lie? Adler (2007) suggests asking a question to which you already know the answer. If the answer you get is evasive or deceptive, you have learned something important about the other party and his or her trustworthiness. And when you do think your opponent’s allegiance to the truth is shaky, Adler counsels taking good notes during the negotiation (and invite the other side to confirm the accuracy of your notes) in order to create and preserve accountability later.

“Call” the Tactic Indicate to the other side that you know he is bluffing or lying. Do so tactfully but firmly, and indicate your displeasure. Keep in mind, however, that spotting lies is not always easy—see Box 9.6. Mistakenly calling the other party a liar or an unethical negotiator is certainly not the path to a constructive process and fruitful outcome.

Ignore the Tactic If you are aware that the other party is bluffing or lying, simply ignore it, especially if the deception concerns a relatively minor aspect of the negotiation. Some may lie or bluff out of an expectation that this is what they “should” be doing—that it’s part of the ritual or dance of negotiation—rather than out of a sinister sense of ethics or morality. We mentioned in Chapter 8 that negotiators at times make unwise commitments—statements they later regret promising things or ruling out options—and it is sometimes in the best interest of the other party to help that negotiator “escape” the commitment and save face. A similar logic can apply to deceptive statements when the motive is closer to naïveté than depravity: let it pass, avoid embarrassing the other person, and move on. (Table 9.3 has additional suggestions for dealing with situations where you suspect that the other party is engaged in deception.)

<table>
<thead>
<tr>
<th>TABLE 9.3</th>
<th>(Concluded)</th>
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<tbody>
<tr>
<td><strong>Point of deception cues</strong></td>
<td>Point out behaviors you detect in the other that might be an indication he is lying: sweating, nervousness, change of voice, inability to make eye contact, and so on.</td>
</tr>
<tr>
<td><strong>Concern</strong></td>
<td>Indicate your true concern for the other’s welfare: “You are important to me,” “I care deeply about you,” “I feel your pain.”</td>
</tr>
<tr>
<td><strong>Keeping the status quo</strong></td>
<td>Admonish the other to be truthful in order to maintain her good name. “What will people think?” Appeal to her pride and desire to maintain a good reputation.</td>
</tr>
<tr>
<td><strong>Direct approach</strong></td>
<td>“Simply tell me the truth.” “Let’s be honest here.” “Surely you have no objection to telling me everything you know.”</td>
</tr>
<tr>
<td><strong>Silence</strong></td>
<td>Create a “verbal vacuum” that makes the other uncomfortable and gets him to talk and disclose information. When he tells a lie, simply maintain direct eye contact but remain silent.</td>
</tr>
</tbody>
</table>

Is There Such a Thing as an “Honest Face”?

Although people in general are not particularly good at spotting lies, some people continue to believe that they can tell by looking into someone’s face if that person is inclined to be dishonest or truthful on a regular basis. But how accurate are such assessments?

A study asked participants to view photographs of the same people as children, adolescents, and adults and to rate their attractiveness and honesty based on an assessment of their faces. These results were compared to self-reports of honest behavior provided by the people in the photographs. The results demonstrated that structural qualities of the face, such as attractiveness, “babyfaceness,” eye size, and symmetry each individually contributed to perceptions of greater honesty in observers. The self-reports revealed that men who looked more honest early in life actually were more honest as they grew older. On the other hand, women whose behavior was less honest when they were young grew to appear more honest as they aged, even though their behavior did not change significantly. Study participants were able to correctly identify the most honest men in the group as they aged, but their assessment of women was largely inaccurate. The researchers concluded that men’s faces accurately reflected their tendency toward honesty, but women’s faces were not particularly valid indicators of their truthfulness.


Discuss What You See and Offer to Help the Other Party Shift to More Honest Behaviors

This is a variation on calling the tactic, but it tries to assure the other party that telling the truth is, in the long term, more likely to get him what he wants than any form of bluffing or deception will.

Respond in Kind

If the other party bluff[s], you bluff more. If she misrepresents, you misrepresent. We do not recommend this course of action at all, because it simply escalates the destructive behavior and drags you into the mud with the other party, but if she recognizes that you are lying too, she may also realize that the tactic is unlikely to work. Of course, if the other party’s lies are so direct and extreme as to constitute legally actionably fraud, then it is not an approach you would want to mimic under any circumstances. In general, the “respond in kind” approach is best treated as a “last resort” strategy.

Chapter Summary

The process of negotiation raises frequent and critical ethical issues. In this chapter, we have discussed factors that negotiators consider when they decide whether particular tactics are deceptive and unethical. Although a lot of writing on negotiation is strongly normative about ethical dos and don’ts, we prefer an analytical approach that focuses on how negotiators actually make decisions about when and where to use specific tactics. Accordingly, we approached the study of ethically ambiguous tactics from a decision-making framework, examining the ethical overtones of the choices that negotiators make.
We began by drawing on a set of hypothetical scenarios to discuss how ethical questions are inherent in the process of negotiation. We then presented four fundamental approaches to ethical reasoning and showed how each might be used to make decisions about what is ethically appropriate in negotiations. We proposed that a negotiator’s decision to use ethically ambiguous (or flatly unethical) tactics typically grows out of a desire to increase one’s negotiating power by manipulating the landscape of (presumably accurate) information in the negotiation. We discussed the different forms that ethically ambiguous tactics take, and we reviewed relevant research about the use of those tactics.

Working from a simple model of ethical decision making, we analyzed the motives for and consequences of engaging in unethical negotiation behavior. We then expanded the model to identify individual differences and contextual factors that influence the likelihood that negotiators will use such tactics. Finally, we addressed how negotiators can respond to another party that may be using tactics of deception or subterfuge.

In closing, we suggest that negotiators who are considering the use of deceptive tactics should ask themselves the following questions:

- Will they really enhance my power and help me achieve my objective?
- How will the use of these tactics affect the quality of my relationship with the other party in the future?
- How will the use of these tactics affect my personal and professional reputation as a negotiator?

Negotiators frequently overlook the fact that, although unethical or expedient tactics may get them what they want in the short run, these same tactics typically lead to tarnished reputations and diminished effectiveness in the long run.

Endnotes

1 See Boatright (2000); De George (2006); Donaldson and Werhane (2008); Green (1994); and Rachels (2003), for elaborations of these approaches.


3 The accompanying box (9.1) on the legality of lying in negotiation addresses U.S. law. Obviously, legal systems vary from country to country, and so too will legal doctrine regarding deception and fraud in negotiation.

4 See also Barry, Fulmer, and Long (2000); Lewicki (1983); Lewicki and Spencer (1990); Lewicki and Stark (1995); Robinson, Lewicki, and Donahue (2000).

5 See also Braginsky (1970); Exline, Thibaut, Hickey, and Gumpert (1970); Geis and Moon (1981); Ross and Robertson (2000).