

PETER A. ALLARD SCHOOL OF LAW
Syllabus
LAW 477.001
Negotiation and Dispute Resolution

Winter 2021

Professor Michelle LeBaron
Office Hours: by appointment
Email: lebaron@allard.ubc.ca

Course summary:

This course will focus on processes outside litigation from negotiation to other dispute-engagement avenues. With a focus on lawyers as problem-solvers, we will connect theory to practice, examining ways to maximize effectiveness in policy and practice work. We will examine work on creativity, problem-solving, dialogue, negotiation, risk and risk assessment, representative negotiation, change management, intercultural communication, leadership and conflict prevention/transformation. Participants will learn through case studies and experiential activities designed to deepen their repertoire practical skills grounded in theories and concepts. Upon completing the class, participants will have expanded their capacities for effective legal representation and applying their skills in diverse other roles in public and private settings.

The course will be taught with a spirit of inquiry, engaging these paradoxes outlined by Parker Palmer:

We invite diversity into our community not because it is politically correct but because diverse viewpoints are demanded by the manifold mysteries of great things.
We embrace ambiguity not because we are confused or indecisive but because we understand the inadequacy of our concepts to embrace the vastness of great things.
We welcome creative conflict not because we are angry or hostile but because conflict is required to correct our biases and prejudices about the nature of great things.

When Parker refers to “great things” he means, among other things, “the archetypes of betrayal and forgiveness...that are the stuff of literature....and the elusive idea of justice under law.”*

Course schedule: The course is on Tuesday afternoons from 2-5pm, via Zoom.
Join Zoom Meeting
<https://ubc.zoom.us/j/63700967818?pwd=MHY1S21WVVBLSGNWZ3F1cjJWSTFXQT09>

* Palmer, Parker. 1998. *The Courage to Teach*. San Francisco: Jossey Bass, pp. 107-108.

Meeting ID: 637 0096 7818

Passcode: 196857

Netequite guidelines for communication and participation:

- Please remember to practice respect and inclusivity, both in large or small group discussions and in chat.
- Please do not post or share (even privately) inappropriate material
- Once our Zoom session starts, please use the chat function for material related to the class only.
- Please login to the session on time. Because the class will be taught primarily in a synchronous mode, you are expected to arrive on time. Being on time not only contributes to functionality of our class; it communicates respect to your fellow students and to me, and enhances our learning experiences.

Please mute your microphone when you are not speaking, and have your camera on by default unless you have an accommodation relating to these norms. Being present visibly encourages interaction and will enhance our cohort experience.

Course learning objectives:

Drawing on current literature and case examples from scholarly and personal/professional sources, participants will:

- explore intrapersonal, interpersonal and intergroup dynamics of negotiation and disputes;
- learn about a range of strategies for analyzing negotiating and disputing scenarios and planning effective engagement;
- examine and critique negotiation and dispute resolution processes including in-person and online negotiation;
- analyze best practices of dispute resolution across a range of sectors and settings, including private and public sector organizations and communities;
- identify ways that cognitive neuroscience and systems theory inform dispute process design;
- experience imaginative and creative tools for engaging and transforming disputes;
- experiment with somatic, arts-based methodologies including applications and limitations in negotiation and dispute intervention; and
- apply cultural fluency in a range of case types and practice settings through small-group discussion and practice inside and outside the classroom.

Successful completion of the course will expand participants' abilities for adept dispute analysis, intervention and follow-up as third parties, participants or advocates in negotiation and dispute resolution processes. Participants will learn valuable skills of integrative thinking and creativity through experiential exercises and the final paper. Participants will also learn about neuroscientific and systemic

principles in relation to dispute intervention.

****This seminar fulfills the experiential learning requirement.**

CLASS ATTENDANCE AND PARTICIPATION

Regular class attendance and advance reading of materials is expected of all students. The course will be taught through a combination of lectures, experiential activities and discussions that will be meaningful in direct proportion to your degree of preparation and engagement. Absence from more than three classes without excuse will disqualify you from submitting the final assignment.

Notes on class process: This seminar requires and depends on participation from every one. Attending class prepared means completing readings, composing questions arising from the readings and engaging with others in activities and discussions. As in the practice of law or other law-related careers, participants have responsibility as members of this learning community to do advance work, show leadership and engage with others in constructive and collaborative ways.

We will engage in a mid-term evaluation to check in on our progress as a learning community. Participants are encouraged to give feedback or make suggestions about the course process at any time.

Policies: Course assignments must be completed and handed in the time specified on the date due via email. Students are referred to university rules governing [honesty and academic conduct](#). This course will be graded according to standard Faculty of Law [grading rules and practices](#). Academic honesty is governed by the policy found [here](#). Please familiarize yourself with these policies.

Evaluation is P/F. A passing grade means that the following requirements have been met at an acceptable standard:

1. Class presentation and participation
2. Field reflection/case analysis (4-6 pages)
3. Written reflection on course learnings (4-6 pages)

Individual presentations are required and dates will be assigned on the first day of class. Presentations involve leading discussion and initiating/facilitating experiential activities on the assigned readings once during the term. Presenters should distribute any material that requires advanced work or thought to fellow participants no later than the Friday before their presentation.

Field reflection/case analysis is required. This paper should describe and analyze a specific dispute resolution or negotiation process that the participant has experienced

or witnessed directly. Drawing on course readings, the paper should address some of the following:

- dynamics of the conflict
- adversarial vs. problem-solving orientations of parties
- cultural dimensions of the conflict
- framing and reframing of the issues
- creativity demonstrated or possible
- outcomes, turning points or impasses

Approximate length: 4-6 pages

Field reflection paper deadline: 2 February 2021 by 2:00pm

Written reflection on course learnings due date: 26 March 2021 by 4:30pm

All papers may be submitted by email to me at lebaron@allard.ubc.ca

COURSE MATERIALS

REQUIRED READING:

The following texts are required and are available from online booksellers:

Honeyman, C. and Andrea Schneider, eds. 2017. *The Negotiator's Desk Reference, Vol. 1 and 2*. NOTE: This text is available as a web edition for US\$30.00 at www.ndrweb.com <<http://www.ndrweb.com>>

Other articles as assigned in syllabus

Recommended reading:

<http://www.beyondintractability.org/> This database has a wide range of articles and is an excellent free resource for additional reading on a wide range of topics relevant to disputing and culture.

Borrows, John. 2010. *Drawing out Law*. Toronto: University of Toronto Press.

Chase, Oscar. G. 2005. *Law, Culture and Ritual. Disputing Systems in Cross-Cultural Contexts*. New York: New York University Press.

Clark, Mary E. 2002. *In Search of Human Nature*. London, UK: Routledge.

Coleman, Peter. 2011. *The Five Per Cent. Finding Solutions to Seemingly Impossible Conflicts*. New York: Public Affairs.

Folberg, Jay, Dwight Golann, Thomas J. Stipanowich, Lisa A. Kloppenberg. 2016. *Resolving Disputes: Theory, Practice and Law*, 3rd ed. New York: Wolters Kluwer.

Francis, Diana. 2002. *People, Peace and Power: Conflict Transformation in Action*. London: Pluto Press.

Hopkins, Margaret M. and Robert D. Yonker. 2015. "Managing Conflict with Emotional Intelligence: Abilities that Make a Difference", *Journal of Management Development*, 34(2), pp 226-244.
<https://doi.org/10.1108/JMD-04-2013-0051>

Honeyman, Chris and Andrea Kupfer Schneider. 2018. *The Negotiator's Desk Reference* (V.1 and 2) St. Paul: DRI Press.

LeBaron, Michelle and Venashri Pillay 2006. *Conflict Across Cultures*. Boston: Nicolas Brealey, pp. 1-55.

Mayer, Bernard. 2015. *The Conflict Paradox: Seven Dilemmas at the Core of Disputes*. San Francisco: Jossey Bass.

Moore, Christopher and Peter Woodrow. 2010. *Handbook of Global and Multicultural Negotiation*. San Francisco, CA: Jossey Bass.

O'Faircheallaigh, Ciaran. 2015. *Negotiations in the Indigenous World. Aboriginal Peoples and the Abstractive Industries*. New York: Routledge.

Stone, Douglas, Bruce Patton, Sheila Heen and Roger Fisher. 2010. *Difficult Conversations: How to Discuss What Matters Most*. Revised ed. New York: Penguin Books.

Ury, William. 2000. *The Third Side*. Book available from libraries or via online booksellers. New York: Penguin Books.

WEEKLY SCHEDULE
[Note: Materials in Canvas marked with *]

January 12

- Themes** Introduction to course, readings, participants, expectations
Dynamics of negotiating and disputing
A three-part framework for analyzing disputes and negotiation
- Readings** From Honeyman, C. and Andrea Schneider, eds. 2017. *The Negotiator's Desk Reference, Vol. 1* St. Paul: DRI Press:
- Borbely, Adrian and Julien Ohana *The Impact of the Negotiator's Mindset in Three Dimensions* pp. 91-102
 - Peppet, Scott and Michael Moffitt *Learning How to Learn to Negotiate* pp. 13-32
- Activities** Examining dispute and negotiation processes and students' assumptions.
Negotiating Teacups

January 19

- Themes** Negotiation theories and styles
Integrative and distributive bargaining
- Readings** From Honeyman, C. and Andrea Schneider, eds. 2017. *The Negotiator's Desk Reference, Vol. 1* St. Paul: DRI Press:
- Batra, Rishi *Integrative and Distributive Bargaining* pp. 33-42
 - Craver, Charles *Distributive Negotiation Techniques* pp. 75-91
 - Liao, Eko Y *Style and Culture in Negotiation* pp. 43-58
- Activities** Exploring integrative and distributive bargaining; Examining the effects of style and culture in negotiation; Simulations and experiential exercises.
Pasta Wars negotiation*

January 26

- Themes** Negotiating strategies and techniques; Cognitive aspects of negotiation
- Readings** From Honeyman, C. and Andrea Schneider, eds. 2017. *The Negotiator's Desk Reference, Vol. 1* St. Paul: DRI Press:

- Schneider, Andrea K. *Productive Ambition* pp 321-330
- Compton, Alexandra *The Social Brain* pp. 115-126
- Jendresen, Charlotte *Creativity and Flexibility in the Brain* pp. 143-154

Activities Exploring negotiation in practice and the implications of cognitive science.

Live8 preparation and negotiation*

February 2

Themes Analyzing disputes: What lies beneath the surface? What roles do identity and memory play in intractability?

Readings From Honeyman, C. and Andrea Schneider, eds. 2017. *The Negotiator's Desk Reference, Vol. 1* St. Paul: DRI Press:

- Coleman, Peter and Robert Ricigliano *Getting in Sync: What to do when Problem-Solving Fails to Fix the Problem* pp. 467-488
- Coleman, Peter, Nicolas Redding and Joshua Fisher *Understanding Intractable Conflicts* pp 489-508
- Seul, Jeffrey R. *Religious Prosociality for Conflict Transformation* pp. 565-580

Activities Understanding deep-rooted disputes; the role of worldview in conflicts; How memory and commemoration function in intractable conflicts.

Live8 debrief

February 9

Themes Dispute analysis and dispute system design

Readings From Honeyman, C. and Andrea Schneider, eds. 2017. *The Negotiator's Desk Reference, Vol. 1* St. Paul: DRI Press:

- Amsler, Lisa Blomgren *The Negotiator's Role within a Dispute System Design: Justice and Accountability* pp. 249-264 (v. 2)
- Coleman, Peter Nicolas Redding and Joshua Fisher *Influencing Intractable Conflicts* pp 509-528
- Zartman, William *Process and Stages* pp. 645-652
- Zartman, William *Timing and Ripeness* pp. 653-666

Activities	Exploring and applying frameworks for analyzing disputes; How negotiating fits into legal and policy problem-solving; What is dispute system design and how should lawyers approach it? AuraCall preparation and negotiation*
February 23	
Themes	Trust in negotiation and dispute engagement
Readings	From Honeyman, C. and Andrea Schneider, eds. 2017. <i>The Negotiator's Desk Reference, Vol. 1</i> St. Paul: DRI Press: <ul style="list-style-type: none"> ▪ Lewicki, Roy <i>Repairing Trust</i> pp. 217-230 ▪ Cristal, Moty <i>Negotiating in a Low-to-No Trust Environment</i> pp. 231-248 ▪ Loren Toussaint and Ellen Waldman, <i>Forgiveness and Reconciliation: Processes and Outcomes</i> pp. 279-294
Activities	Exploring relational dynamics in negotiation; Simulations and experiential explorations. AuraCall debrief*
March 2	
Themes	Power in negotiation and dispute engagement
Readings	From Honeyman, C. and Andrea Schneider, eds. 2017. <i>The Negotiator's Desk Reference, Vol. 1</i> St. Paul: DRI Press: <ul style="list-style-type: none"> ▪ Gross, Jill <i>Negotiating in the Shadow of Adhesive Arbitration</i> pp. 701-710 ▪ Kolb, Deborah and Jessica Porter <i>Power at Play in Negotiation: Moves and Turns</i> pp. 365-378 ▪ Menkel-Meadow, Carrie and Robert Dingwall <i>Scripts: What to Do when Big Bad Companies Won't Negotiate</i> pp. 711-724
Activities	Examinations of power dynamics with case examples; How to address power asymmetries. Beatlemania preparation and negotiation*
March 9	
Themes	Cultural fluency in negotiation and dispute engagement

Readings From Honeyman, C. and Andrea Schneider, eds. 2017. *The Negotiator's Desk Reference, Vol. 1* St. Paul: DRI Press:

- Goh, Bee Chen *Typical Errors in Chinese-Western Negotiations* pp. 583-594
- Green, Michael Z. *Negotiating While Black* pp. 563-582
- Bear, Julia and Linda Babcock *Gender Differences in Negotiation* pp. 595-606

Gender PowerPoint*

Relational Conflict Management PowerPoint*

Racism and Discrimination PowerPoint*

Cultural matrices*:

- Hofstede, Geert. 1980. *Consequences of Cultures*
- Hampden-Turner, Charles and Fons Trompenaars. 2000. From *Building Cross Cultural Competence*
- LeBaron, Michelle. 2021. *Cultural Fluency in Conflict Resolution Processes*

Activities Cultural autobiography; Applying cultural matrices; Cultural simulations; Experiential explorations and case studies.

Alphaville; Debrief Beatlemania

March 16

Themes Ethics and morality in dispute engagement

Readings From Honeyman, C. and Andrea Schneider, eds. 2017. *The Negotiator's Desk Reference, Vol. 1* St. Paul: DRI Press:

- Hinshaw, Art *Negotiation Ethics* pp. 481-492
- Gibson, Kevin *The Ethical Bedrock under the Negotiation Landscape* pp. 493-502
- Robbennolt, Jennifer and Jean Sternlight *Drawing on Psychology to Negotiate Ethically* pp. 503-514

Activities Examining ethics in negotiations in law and policy; Simulations.
Luna preparation and negotiation

March 23

Themes Multi-party and representative negotiation

Readings From Honeyman, C. and Andrea Schneider, eds. 2017. *The Negotiator's Desk Reference, Vol. 2* St. Paul: DRI Press:

- Kaufman, Sanda, Connie Ozawa and Deborah Shmueli *Multiparty Negotiations in the Public Sphere* pp 413-430.

Farrow, Trevor. *Representative Negotiation* Osgoode Digital Commons, 2008.

http://digitalcommons.osgoode.yorku.ca/cgi/viewcontent.cgi?article=1084&context=scholarly_works

Activities Multiparty and representative simulations.
Luna negotiation continued

March 30

Themes Technical aspects of negotiation and dispute engagement

Readings From Honeyman, C. and Andrea Schneider, eds. 2017. *The Negotiator's Desk Reference, Vol. 2* St. Paul: DRI Press:

- Ebner, Noam *Negotiation via Email* pp. 115-132 (v.2)
- Ebner, Noam *Negotiation via Text Messaging* pp. 133-150
- Ebner, Noam *Negotiation via Videoconferencing* pp. 151-170
- Ebner, Noam *The Technology of Negotiation* pp. 171-186

Activities Applications; pitfalls and challenges of electronic negotiation; the CRT and the future.
Luna negotiation and debrief

April 6

Themes Reflective Practice and Synthesis

Readings Watch *A Killer Whale Called Luna*
<https://www.youtube.com/watch?v=-YzeOnF1I58>

Activities Reflections on learning.