

Negotiation is about entitlements, not interests

Alexios Arvanitis

University of Crete

NOTICE: This is the author's version of a work that was accepted for publication in **THEORY AND PSYCHOLOGY**. Changes resulting from the publishing process, such as peer review, editing, corrections, structural formatting, and other quality control mechanisms may not be reflected in this document. Changes may have been made to this work since it was submitted for publication. A definitive version was subsequently published in **THEORY AND PSYCHOLOGY**, <https://doi.org/10.1177/09593543211008987>

#### Author Note

I thank Marietta Papadatou-Pastou and Antonis Karampatzos for helpful comments on an earlier version of this paper. I also thank Janet Mowery for proofreading the manuscript and making editorial suggestions.

Correspondence concerning this article should be addressed to Alexios Arvanitis, Department of Psychology. Tel.: +28310-77523. E-mail: a.arvanitis@uoc.gr.

### Abstract

The psychological study of negotiation, influenced by economics, has long emphasized the interests of the bargaining parties as the main driver of the negotiation process. This remains the case, even though psychological research has shown that individuals do not behave in the manner predicted by classical economics. A main drawback of the concept of interests is that it is an individual-level construct and, therefore, does not tap directly into the inter-individual nature of the negotiation process. In contrast, entitlements can serve as the key notion in the study of negotiation, both conceptually and epistemologically. I argue that at the heart of negotiation is a rule-making process through which parties define each other's entitlements and duties. If we view negotiation in this way, we can study it as the primary vehicle for the explicit determination of social norms, obligations, and 'ought' standards that permeate social life. This view has ramifications for the study of negotiation itself, for the social-psychological study of co-regulation, even for the function of society as a whole.

*Keywords:* negotiation; interests; entitlements; norms; co-regulation; win-win

### **Negotiation is about entitlements, not interests**

Negotiation textbooks and manuals often start with the observation that people constantly negotiate at home, with their friends, in the workplace. This activity is so prevalent that it performs an important function in human coordination and co-regulation, with possible wide-ranging implications. However, this function has been neglected in the literature to date. My purpose is to draw on this coordination and co-regulation function to suggest a new social-psychological perspective for negotiation, while at the same time demonstrating the shortcomings of current negotiation theory.

### **Interest-based negotiation**

Research in the field of negotiation has traditionally emphasized the notion of integrative negotiation (e.g., Bazerman et al., 2000; De Dreu et al., 2000; Lax & Sebenius, 1986; Lewicki et al., 2020; Raiffa, 1982, Thompson, 2020a; Thompson et al., 2010), which is otherwise and widely known as *win-win* negotiation. Win-win is a negotiation outcome in which the negotiating parties jointly satisfy their interests and has a “near universal appeal” that applies to economists and behavioral scientists alike (Thompson, 2020b). The interests that are satisfied in such an outcome are the individuals’ preferences and the utility that the outcome produces for each party (Walton & McKersie, 1965). By focusing on mutually satisfactory outcomes and by using the familiar concepts of win-win, win-lose, and lose-lose, negotiation researchers treat negotiating behavior (e.g., tactics, strategies, communication signals) as instrumental to the ultimate goal of interest satisfaction (Putnam, 1994).

Instrumentalism is the default approach to negotiation (Ingerson et al., 2015). According to this approach, negotiation is a means for achieving outcomes that are judged beneficial on the basis of stable individual preferences. Since the landmark publication by Raiffa (1982), as well as the work of Fisher and Ury (1981), the

scientific study of negotiation has been oriented toward Pareto-efficient outcomes (von Neumann & Morgenstern, 1944) — that is, outcomes that fully utilize resources on the bargaining table and maximize the benefits to the negotiating participants. Early game-theoretic work in this tradition proposed that negotiation would converge toward outcomes that maximized the mathematical product of negotiators' utility (Nash, 1950), without taking into account the negotiation process.

The central role of integrative outcomes in the study of negotiation is based on a specific view of human nature. The win-win prescription, like most prescriptions about the world, makes suppositions about how the world *is* before it makes a projection about how it *ought to be* (Schwartz, 1987), in the sense that any prescription is inevitably constrained by the nature of its object. It is based on the economic supposition that individuals aim to *win* — or in other words, satisfy their interests. Negotiation, as a procedure, is accordingly viewed, in the best light, as a teleological device for the satisfaction of *all* negotiating parties' interests. This perspective has a utilitarian basis that is inextricably intertwined with economics (Riley, 2008) and has made its way into psychology.

Even within economics, however, it is widely accepted, and exemplified by the work of Nobel laureates Kahneman and Thaler, that individuals systematically fail to serve their own interests and achieve favorable outcomes. This idea is also accepted within psychology, but not to the degree of entirely rejecting economics' conceptualization of negotiation. With the exception of the field of discursive psychology, which focuses on negotiation as communication and studies the concept of interests only when they turn up during discourse (Whittle & Mueller, 2011), psychological negotiation theory is interwoven with an objective economic analysis of negotiation outcomes (Thompson, 1990). It makes the distinction between distributive

(i.e., win-lose) and integrative (i.e., win-win) negotiation. It further employs tools such as the BATNA (Best Alternative To a Negotiated Agreement) and the ZOPA (Zone Of Possible Agreement). These tools aim to help in understanding what individuals, whose motive is to satisfy their own interests, would do in a negotiation given the possible outcomes (Thompson et al., 2010). In fact, these tools are the main terms around which psychological concepts, such as emotions, trust, relationships, social norms, and culture, are studied (Bazerman, 2015; Brett & Thompson, 2016).

It is important to note that interests are rarely viewed narrowly in the form of tangible interests that involve the accumulation of material resources for oneself. Pruitt (1983) proposed that basic negotiating strategies stem from two concerns: concern for one's own outcomes and concern for the other negotiating party's outcomes. For example, if a negotiating party has low concern for herself and high concern for the other party, she will adopt a yielding strategy. Lax and Sebenius (1986) argued for an expansion of the notion of interests by including interests in relationships, in precedent, in principles, in fairness, in prestige, and in the process. Curhan, Elfenbein, and Xu (2006) developed a tool for measuring subjective value consisting of four subconstructs: feelings about the outcome, self, process, and relationships. For the model of the interest-satisfying negotiator to be evaluated properly, the proponents of the model argue that all these sources of value should be properly taken into account (Brown & Curhan, 2012). In the end, though, every person has individual preferences for all these different sources of value and weighs them on an individual-utility scale with the purpose of maximizing the value of a possible outcome.

Within economics, there is discussion on the limits of the paradigm of the self-interested actor. Not every parameter of behavior fits well with the concept of

interests, however broadly interests may be defined. In particular, why people honor social rules and norms cannot be traced to some type of individual preference for upholding norms (Binmore, 2010). Sen (1977) argued that commitment, which is closely related to one's morals, is not explained well by utilitarian conceptions of the self-interested actor. On a societal level, Ostrom (1990) showed, through an extensive analysis of case studies, that societies can self-govern by relying on norms that have value in themselves. Where the model of homo economicus, whose behavior is guided by instrumental rationality, fails is in its inability to explain behavior as following a norm without an instrumental goal in mind (Elster, 1989). If negotiation, as I will argue, can be viewed as the central process of co-regulation, then rules, norms, and commitments would, in line with the views of economists, go beyond the concept of interests. In order to approach negotiation in this way, first one needs a concept that refers to the intersubjective construal of reality by the negotiating parties.

### **Negotiation and entitlements**

Entitlements are treated within psychology as a less appropriate concept than interests, for both the theory and the practice of negotiation. Building on the distinction among interests, rights, and power that was introduced by Ury, Brett, and Goldberg (1988), current negotiation theory would suggest that a focus on entitlements or rights, instead of interests, is likely to turn negotiation into a contest. Therefore a proposal that puts entitlements at the center of negotiation theory is likely to meet with resistance from current negotiation scientists, those working within both economics and psychology. It is important to note here that the notion of entitlements that is discussed below is broader than the strict, narrow sense of a legal or contractual term that negotiation theorists view as an obstacle to effective negotiation. It does not refer only to rigid pre-existing entitlements that are connected to prevalent moral

norms, but also to malleable, flexible entitlements that are defined during negotiation and require the validation that is offered by the agreement of other negotiating parties (Arvanitis & Karampatzos, 2013). My focus is mostly on the latter, which, I argue, is the main object of negotiation.

Instead of focusing on negotiation as a procedure that is intertwined with its outcome and defined by the parties' interests in that outcome, I focus on negotiation as a communicative procedure that involves a specific type of disagreement. Within this perspective, negotiation is defined by the properties of that disagreement and the ways in which it is resolved. Whereas some disagreements involve aspects of the objective world and can be resolved, for example, through a simple internet search, negotiation requires a convergence of wills (Arvanitis, 2015). In other words, its successful completion lies in the negotiating parties jointly choosing to reach an agreement. For example, it is my choice to say "yes" or "no" to the destination my friends have suggested for our vacation, it is the choice of my supervisor to agree to my request for a salary increase, it is the choice of a businessperson to sign a contract or not. Whatever pressure may be applied, final agreement is ultimately an act of will, as long it takes place in the context of a negotiation and not of extortion. This final agreement involves negotiating parties literally coming to an arrangement — that is, a plan for how to proceed with an interaction. We can think of this arrangement as a rulebook that, in a short friendly negotiation, can be two lines long and unofficial (e.g., agreement on the destination of the trip and the identity of the person who will drive the car), or, in a multi-party legislative negotiation, several hundred pages long and official (e.g., a statute). Parties in this sense are co-authors of their own rulebook, their own set of rules. The perspective that is outlined here draws on the consensualistic approach to negotiation (Arvanitis, 2015), which asserts that

individuals co-author the rules of their interaction through agreement without making any assumptions about their predispositions toward the negotiating outcome. It stresses the role of commitment to personal, social, and moral norms as a defining factor in negotiating agreement. As explained in the discussion of interest-based negotiation, the economic paradigm of the self-interested negotiator does not capture these notions well. The emphasis on norms and their central role in social behavior is more consistent with the concept of *homo sociologicus* than with the concept of *homo economicus* (on this distinction see Elster, 1989).

Once arrangements are agreed upon, they become sets of rules that define how a joint activity or action *should* proceed. Therefore, any agreement entails duties for all sides involved. At the same time, it entails corresponding entitlements. In fact, negotiation can be seen as an attempt to settle on an arrangement of entitlements (or the related notion of claim-rights; see Arvanitis & Karampatzos, 2013). Consider a simple bargaining situation, in which the seller asks \$120 and the buyer offers \$100 for a product. The \$20 difference is claimed by both parties. In other words, both parties claim to be entitled to it. Now imagine that the seller agrees to drop the price to \$115. The question is whether the seller has given something to the other side. Intuitively one might think so, but it is definitely not \$5, since no \$5 bill was exchanged. What really happened was that the seller relinquished her entitlement to the \$5 but maintained her claim to the remaining \$15 that is under dispute. At the same time, the buyer was recognized as being entitled to a \$5 share of the \$20 bargaining pie should the parties come to a final agreement. Recognitions of entitlements during negotiation are conditional on a final agreement, and do not materialize until it is achieved. In this case, the agreement would involve the final price for the product.



By offering an account of the intersubjective construction of rules, entitlements, and duties during negotiation, it is possible to go beyond the economic view that focuses on the allocation of resources at the end of the process. If negotiation is seen as a give-and-take, then its object is the entitlements asserted by the negotiating parties. Entitlements in turn are connected to rules that are proposed during the process. Instead of treating negotiation as a process of interest satisfaction, it can be viewed as the main human interaction through which social rules and norms, even ethics, are explicitly determined through the agreement of negotiating parties. Agreement signifies commitment that seals the 'ought' requirements, the normative standards of social interaction. With this theoretical account, it is possible to approach the co-regulatory function of negotiation.

#### **A conceptual comparison of entitlements and interests**

In order to see whether entitlements or interests are the central element in negotiation, it is worth asking what people actually negotiate about. From an economics point of view, interests and preferences are fairly stable and fixed (Stigler & Becker, 1977; cf. Hoeffler & Ariely, 1999) and do not require consent from others in order to be validated. When I discuss with a friend which restaurant we might go to, I am not negotiating what I want. My preferences pre-exist the negotiation. The issue at hand is whether I am *entitled to* what I want. Unlike preferences, entitlements are not fixed and are not restricted to the individual. Entitlements are not the only concept relevant to the relationship between individuals or groups, though; some of each party's interests will concern other parties and the relationship that they share. For instance, my interest might be to please my friend during a night out. What sets entitlements apart is that they can only be construed intersubjectively. Whereas interests affect how an individual connects to the outside social world, entitlements affect how

individuals connect with each other. Interests can be conceived outside a relationship, but entitlements cannot, since they go hand-in-hand with other parties' duties and the rules of the relationship. Going back to the previous example, if I wish to go to a particular restaurant with a friend, the object of negotiation is not what I want but whether I am entitled to it in the context of our relationship. If on four previous occasions we have followed the preference of my friend, then my entitlement would appear strong. However, no entitlement is validated unless the other side concedes, "OK, this time we'll go where you suggest." Negotiation is therefore the process during which such entitlements are asserted and potentially validated through the prospective final agreement.

An important difference between interests and entitlements is that the latter are constrained and the former are not. Under the premise that interests obey the utility-maximization principle of economics, my preference will always be to visit the restaurant of my choice (even if my interest involves satisfying the other party) or to attain the price of a billion dollars for something I sell. The utility-maximization postulate that is connected to the economic model of the self-interested actor does not set a ceiling on my wants or my interests. During negotiation, however, I can hardly expect to present these interests as claims. Therefore it is not what I *want* to do (i.e., my interests), but rather what my negotiating partner and I *should* do (i.e., our entitlements and duties) that needs to be settled before an activity or an exchange, which lies at the center of the negotiation process, goes forward.

An emphasis on entitlements does not mean that interests will not play an important role in negotiation. Indeed, economists may argue that the interests of others essentially define entitlements. If I am in a negotiation in which both parties are trying to satisfy their own interests, I cannot verbalize my wants as potential

claims without the other party walking away from the negotiating table, or even the relationship as a whole, in order to find an alternative way to satisfy her interests. Therefore each one of us has to restrict our claims in order to satisfy our interests to the greatest possible degree. In that sense, interests substantially shape entitlements. But even if we accept the model of the self-interested actor advocated by economics, according to which entitlements predominantly come from the interconnected web of transactions in which all individuals try to satisfy their interests, negotiation itself would arguably still be about entitlements. If an agreement is achieved, the level of satisfaction of interests may vary according to, and even greatly determine, the arrangement that is agreed upon; but it is the arrangement itself that is under negotiation, not the interests.

#### **An epistemological comparison of entitlements and interests**

In order to approach negotiation scientifically, we need to employ concepts that fit the phenomenon we are studying. Within social psychology, it is not appropriate to use an individual-level concept to explain an inter-individual interaction (for appropriate levels of explanation, see Doise, 1980). Interests serve the purpose of connecting the individual to resources and in that sense are an individual-level concept. These resources may include gains from relationships or group participation, but they are always measured on an individual utility scale. In contrast, entitlements go hand-in-hand with the duties of other individuals and therefore are classified as inter-individual constructs. If you are entitled to something, other people have a duty to respect your entitlement (see Arvanitis & Karampatzos, 2013). Negotiation, as a process that occurs between individuals or between groups, is therefore better described through a concept that cannot be conceived outside the context of interaction between individuals or between groups.

The study of decision making and game theory in economics has influenced the psychological study of negotiation to the extent that psychology has not developed a distinct approach. An important difference between the two disciplines is that the economic approach is basically normative: it provides a benchmark for rational behavior, on the basis of which actual behavior is assessed. The problem with using this benchmark is its de facto acceptance as a valid approximation of reality. Psychology has in essence accepted that the primary motivation of individuals during negotiation is to satisfy their own interests, although it also offers insight into cognitive and emotional processes that are evaluated against the backdrop of economic rationality.

Let us take the example of the ultimatum game (Güth, Schmittberger, & Schwarze, 1982), which has a very simple bargaining form: one player proposes allocating a fixed sum between another player and herself — for example, \$10. Either the other player accepts it and the players are allocated the money as proposed; or he rejects it and both receive nothing. Early laboratory experiments established that most participants in this game offered the other player 30–40% of the sum (Camerer & Thaler, 1995). This outcome contrasts sharply with the classical economic view, which would expect a rational self-interested player to propose a highly uneven split (e.g., 90–10%) and the other player to accept it (since a small sum is better than nothing). This finding is treated as surprising because of the value individuals seem to place on equality and justice instead of on their own tangible, monetary interests. Nevertheless, the more the notion of interests is broadened to encompass fairness and other negotiation variables, the more all psychological findings are treated as separate and interesting additions to the model of the self-interested actor. Choosing a 50-50 split reveals a preference for fairness, whereas choosing a 90-10 split reveals a

preference for monetary payoffs. Guilt, envy, fairness heuristics, and greed are all treated as aspects of interests. In that sense, psychology is mostly of use in completing the model of the rational actor. If the focus is switched to entitlements, however, all psychological factors, including interests, can be studied under a different conceptual framework. All proposed splits are evaluated as rules that are proposed by one player in the form of entitlements and await validation by the other actor. Economic rules of maximizing monetary payoffs could inform entitlements as much as equality norms can. Other psychological variables are included on the basis of their relevance to the adoption of rules and norms, as well as the equivalent rights and entitlements. This social-psychological approach has been found to be especially useful for the study of the ultimatum game, which includes social contextual mechanisms (Arvanitis, Papadatou-Pastou, & Hantzi, 2019).

A last epistemological note concerns the negative connotation that self-interest brings into the study of negotiation, thereby hampering its possible positive applications as a broader societal tool. Take, for example, the established political theory of deliberative democracy. Negotiation is traditionally excluded from the realm of deliberation because it is considered an instrument for the satisfaction of self-interest (Mansbridge et al., 2010). It is only accepted if deliberation is factored in (see, for example, the notion of deliberative negotiation in Warren & Mansbridge, 2013). Unless negotiation is conceptually treated differently from a procedure that is driven by self-interest, it will have limited use in the social sciences, possibly acting against its useful application in society as a whole.

### **Why entitlements are important for the study of negotiation**

If we switch the emphasis from interests to entitlements, as suggested here, then we acknowledge that negotiation is not a vehicle for accruing value and winning, but a

medium of communication and co-regulation. Therefore, if one wishes to understand negotiation, one needs to study how people construct rules of interaction and how they explicitly co-define entitlements and the corresponding duties.

The study of the procedure of negotiation, the “negotiation dance” (Adair & Brett, 2005), is at the center of this approach, as well as the research that focuses on the communicative aspect of negotiation (Arvanitis & Karampatzos, 2011; Hamilton, 2000; Jochemczyk, & Nowak, 2010; Keough, 2017; Peleckis & Peleckiene, 2015; Putnam 2004, 2010). Whatever determines how the parties perceive and communicate their entitlements, as well how they accept (or reject) the entitlements of others, is at the heart of the study of negotiation. For example, explicitly overemphasizing rights and entitlements is like bringing a lawyer to a friendly dispute: it will likely undermine the prospects for agreement. Current negotiation theory is therefore skeptical about this practice. Entitlements may operate implicitly during negotiation, however, as in the case of the ultimatum game, and can be asserted by strong argumentation. An explicit reference to rights is not needed.

A possible downside of focusing on entitlements rather than on interests is that the concept is considered appropriate for distributing the negotiating pie but not for enlarging it. A focus on interests is the basis of integrative negotiation — that is, win-win negotiation — and may facilitate agreement (Giacomantonio, De Dreu, & Mannetti, 2010). If this aspect of negotiation is entirely neglected by a focus on entitlements, then the approach outlined here may be not suitable for the study of negotiation. Yet this is not the case; let us examine what happens when the pie is enlarged. When negotiators offer more value to the other side through a careful review of interests, they are able to claim a bigger slice of the pie. This would not be possible, however, unless the other parties were willing to accept that, since they

benefited, they would have to give something back. It is reciprocity and equality, which are powerful social norms (in other words, social rules), that in this case strengthen the entitlements of negotiators that engage in win-win negotiation (Brett & Thompson, 2016). That having been said, the expression of strong entitlements in value-driven conflicts may indeed undermine the prospect of integrative tradeoffs that lead to win-win agreements (Schuster, Majer, & Trötschel, 2020). Although this outcome would be treated as undesirable from an interest-based view of negotiation, it could be evaluated positively under an entitlements' view of negotiation if what stands in the way of interests is a moral principle. It is also why negotiation can be treated as a valuable societal democratic tool that safeguards moral principles alongside interests.

At the same time, win-win prescriptions are not themselves amoral or necessarily contrary to entitlements. They are social norms that are connected to the philosophical view of utilitarianism and can guide entitlements. For example, when one party argues that the final agreement will leave everyone happier, the accompanying entitlements will appear stronger. Everyone is entitled to the pursuit of happiness after all. Interests and entitlements could therefore potentially feed from one another.

If we distinguish interests from entitlements and focus our analysis on the latter, then we can study negotiating behavior on both a distributive level and an integrative level, but also study their interplay. The subtle but basic mechanics of negotiation entitlements can open up new possibilities for research, especially with regard to the study of rules and their relation to entitlements that has been neglected so far.

### **Why entitlements are important for social psychology**

Negotiation is an everyday activity that we would expect, from its prevalence alone, to serve an important function. The ‘entitlements’ account suggests that this function serves the ability of parties to co-author the rules of their interaction. Each party adapts to the behavior of other negotiators in a joint attempt to regulate their interaction. Adaptive co-regulation is detectable when the unit of analysis is social rather than individual (Semin & Cacioppo, 2008), and therefore I have argued that entitlements are more appropriate for the study of negotiation because they are only conceived at the inter-individual level. More important, a full examination of this concept will help social psychology create a common thread of study that spans the field from the level of two-person intimate relationships to the level of multi-member legislative bodies or multi-national organizations. If negotiation is a way for negotiators to get what they are entitled to by securing the agreement of others, then rules, entitlement, and agreement are intertwined in this social-psychological account.

Within social psychology, rules for behavior have been studied in relation to normative influence, as in the classic Asch (1951, 1956) conformity research. These rules take the form of social norms and can either describe what most people *usually* do or instruct what they *should* do (Cialdini, Kallgren, & Reno, 1991). However, the subject of study usually concerns the conditions under which norms influence action (Legros & Cislighi, 2020), not how they are formed through negotiation. The starting point for such an analysis could be their emergence during negotiation.

Norms are likely to turn up in any negotiation since it does not take place in a vacuum. On an abstract level, everyone is familiar with general norms of equality or equity, and many people are familiar with win-win prescriptions. It is also a fact that people often assume that negotiation is strictly distributive, a phenomenon called the fixed-pie perception (Bazerman & Neale, 1983), and therefore think that the prevalent



negotiating norm is trying to best the opponent. On a specific level, any interaction can be guided by certain norms. For example, buying a car is different from buying a deodorant, and going out with your business associate is different from going out with your spouse. Most interactions are guided by specific norms that lay out how individuals are expected to behave and negotiate in the context of those interactions. Moreover, individuals have their own personal norms, both on an abstract level, in the form of personal values or principles, and on a specific level, in the form of rules created through habit. All these different types of rules could play a role in a negotiation, depending on both the context and the interplay among individuals. Notably, as individuals process contextual information and salient social norms, they also interact with negotiating partners to tailor rules to their own interaction. In this sense they are not simply following norms; they are using norms as input to co-regulate their interaction. Individuals can be thought of as ‘normative entrepreneurs’ (Fine, 2001), creating, shaping, or negating social norms.

In order to study co-regulation within negotiation, an initial question concerns how individuals regulate their own behavior. Rules that individuals follow can be imposed by the environment or may be autonomously endorsed (Arvanitis, 2017; Arvanitis & Kalliris, 2020). Classic work on attitude change (Kelman, 1958) suggests that individuals can be induced into compliance or can internalize norms. Even personal norms can be partially internalized — or introjected — but not necessarily integrated, depending on motivational processes (Ryan & Deci, 2017). Before social psychology attempts to answer questions about co-regulation and the co-authoring of rules within negotiation, it is necessary to understand the motivational processes that guide the adoption of all types of rules by individuals.

Another question that is more situational than the one mentioned above concerns the possible necessity of the agreement of others for regulating one's own behavior. This is the point when co-regulation emerges and the extent of relevant parties' possible control over the other parties' behavior potentially creates a conflict of entitlements. Two fundamental questions that have not been the object of research are: In what contexts is it appropriate for individuals to regulate the behavior of others? And how does disagreement on the terms of regulation, which is essentially a conflict between entitlements, give rise to a process of negotiation? These questions relate to the antecedents of negotiation in everyday activity.

A final question is how individuals coordinate to create common rules by drawing on social-contextual rules as well as personal norms in order to solve the conflict between entitlements. This is a matter not only of one-way persuasion, but mainly of how a two-way communicative process leads to agreement (Arvanitis, 2015; Jochemczyk, & Nowak, 2010). These questions are relevant to far more social activity than has been the object of study by negotiation researchers. Investigating these research questions is likely to offer insight into several aspects of social life that negotiation is part of. The goal would be to understand the process during which individuals and groups co-define the 'ought' standards, the rules of their interaction. These ought standards can be simple, conventional terms of interaction that are accompanied by the duty associated with an agreement, or they can be broader moral norms that have evolved from processes of negotiation.

### **Negotiation's "trolley problem"**

The alternative approach to negotiation, which is outlined here, is based philosophically in the deontological ethics of Kant and Habermas (Arvanitis, 2015). Between utilitarianism and deontology there is a conflict that is exemplified by the

well-known trolley problem (introduced by Foot, 1967): a person is called to decide whether to pull a lever that will divert a trolley onto a track where it will kill one person, or allow the trolley to continue on its current track and kill five people. The dilemma is intensified if the decision entails more active participation, for example, by involving the requirement to push one person onto the track in order to derail the trolley and save the five people. In this hypothetical situation, proponents of the utilitarian view would sacrifice one person in order to save the most people possible, but deontologists would not, because it is not right to use the life of one person as a means to any end, including to save the lives of others. On the one hand, there is an effort to maximize the utility and satisfy the interests of the people involved; on the other hand, there is a deontological rule that people have a duty to uphold, irrespective of interests. The conflict between the opposing philosophical views hinges on whether morality is in essence about utility or about rules. It is not a conflict that can easily be resolved. I make a similar argument: negotiation is not primarily about the production of utility and the satisfaction of interests; its primary function is the creation of rules and entitlements. In response to the trolley problem there are strong arguments in favor of both deontological and consequentialist reasoning. In contrast, with respect to current negotiation theory, the ‘entitlements’ (or ‘rights’) view has been easily dismissed in favor of the ‘interests’ view, thus making the study of negotiation one-sided. Switching to the ‘entitlements’ view will open up new possibilities for the study of negotiation. In addition, it will help social psychology to use negotiation in the study of the wider context of co-regulation and possibly help society to recognize its broader value.

### **Conclusion**

Entitlements are what people give and take during negotiation; they are what they assert, what they disagree on, and what they can finally agree on if there is successful resolution of a conflict. However, they are not currently the main concept of analysis for negotiation; interests are. Here I have argued in favor of an ‘entitlements account’ for negotiation. Conceptually, interests are not the object of negotiation, nor are they socially constrained — but entitlements are. Epistemologically, they are not construed intersubjectively and are not embedded in the communicative process of negotiation — but entitlements are. The study of negotiation would benefit from a focus on the communication of entitlements, even for the so-called win-win negotiation, which is defined by a reliance on interests. Social psychology in general can also benefit from viewing negotiation as a co-authoring of rules and entitlements since so much of social life is co-regulated. The conflict between interests and entitlements is not restricted to psychology, though: win-win prescriptions, which are based on interests, and entitlement prescriptions, which go beyond interests, are respectively based on utilitarian and deontological principles. Viewing negotiation in deontological terms may influence general societal views on the role of negotiation in political systems and democracy. The question is whether the primary function of the prevalent social activity of negotiation is to serve individuals’ interests or to create rules that individuals agree to abide by. The answer I have defended, put as simply as possible, is that negotiation is about co-regulating, not about winning.

## References

- Adair, W. L., & Brett, J. M. (2005). The negotiation dance: Time, culture, and behavioral sequences in negotiation. *Organization Science*, *16*(1), 33-51. <https://doi.org/10.1287/orsc.1040.0102>
- Asch, S. E. (1951). Effects of group pressure upon the modification and distortion of judgments. In H. Guetzkow (Ed.), *Groups, Leadership and Men: Research in Human Relations* (pp. 177–190). Carnegie Press.
- Asch, S. E. (1956). Studies of independence and conformity: I. A minority of one against a unanimous majority. *Psychological Monographs: General and Applied*, *70*(9), 1–70. <https://doi.org/10.1037/h0093718>
- Arvanitis, A. (2015). Agreement as the convergence of will: A consensualistic approach to negotiation. *New Ideas in Psychology*, *37*, 24–32. <https://doi.org/10.1016/j.newideapsych.2014.12.002>
- Arvanitis, A. (2017). Autonomy and morality: A self-determination theory discussion of ethics. *New Ideas in Psychology*, *47*, 57–61. <https://doi.org/10.1016/j.newideapsych.2017.06.001>
- Arvanitis, A., & Kalliris, K. (2020) Consistency and moral integrity: A self-determination theory perspective, *Journal of Moral Education*, *49*(3), 316-329, <https://doi.org/10.1080/03057240.2019.1695589>
- Arvanitis, A., & Karampatzos, A. (2011). Negotiation and Aristotle's rhetoric: Truth over interests? *Philosophical Psychology*, *24*(6), 845–860. <https://doi.org/10.1080/09515089.2011.569910>
- Arvanitis, A., & Karampatzos, A. (2013). Negotiation as an intersubjective process: Creating and validating claim-rights. *Philosophical Psychology*, *26*(1), 89–108. <https://doi.org/10.1080/09515089.2011.633692>

- Arvanitis, A., Papadatou-Pastou, M., & Hantzi, A. (2019). Agreement in the ultimatum game: An analysis of interpersonal and intergroup context on the basis of the consensualistic approach to negotiation. *New Ideas in Psychology*, 54, 15-26. <https://doi.org/10.1016/j.newideapsych.2018.12.005>
- Bazerman, M. H. (2015). Negotiation. In C.L. Cooper, P.C. Flood, & Y. Freney (eds.), *Wiley Encyclopedia of Management*.  
<https://doi.org/10.1002/9781118785317.weom110192>
- Bazerman, M. H., Curhan, J. R., Moore, D. A., & Valley, K. L. (2000). Negotiation. *Annual Review of Psychology*, 51, 279–314.  
<https://doi.org/10.1146/annurev.psych.51.1.279>
- Bazerman, M. H. & Neale, M. A. (1983). Heuristics in negotiation: Limitations to effective dispute resolution. In M. H. Bazerman & R. J. Lewicki (eds.), *Negotiating in Organizations*. Beverly Hills, CA: Sage.
- Binmore, K. (2010). Social norms or social preferences? *Mind & Society*, 9, 139–157.  
<https://doi.org/10.1007/s11299-010-0073-2>
- Brett, J., & Thompson, L. (2016). Negotiation. *Organizational Behavior and Human Decision Processes*, 136, 68–79. <https://doi.org/10.1016/j.obhdp.2016.06.003>
- Brown, A. D., & Curhan, J. R. (2012). The Utility of Relationships in Negotiation. In R. Croson & G. E. Bolton (Eds.) *The Oxford Handbook of Economic Conflict Resolution* <https://doi.org/10.1093/oxfordhb/9780199730858.013.0011>
- Camerer, C., & Thaler, R. H. (1995). Ultimatums, Dictators and Manners. *Journal of Economic Perspectives*, 9(2), 209–219. [doi:10.1257/jep.9.2.209](https://doi.org/10.1257/jep.9.2.209)
- Cialdini, R. B., Kallgren, C. A., & Reno, R. R. (1991). A focus theory of normative conduct. *Advances in Experimental Social Psychology*, 24, 201–234.  
[https://doi.org/10.1016/S0065-2601\(08\)60330-5](https://doi.org/10.1016/S0065-2601(08)60330-5)

- Curhan, J. R., Elfenbein, H. A., & Xu, H. (2006). What do people value when they negotiate? Mapping the domain of subjective value in negotiation. *Journal of Personality and Social Psychology, 91*(3), 493–512.  
<https://doi.org/10.1037/0022-3514.91.3.493>
- De Dreu, C. K. W., Weingart, L. R., & Kwon, S. (2000). Influence of social motives on integrative negotiation: A meta-analytic review and test of two theories. *Journal of Personality and Social Psychology, 78*(5), 889–905.  
<https://doi.org/10.1037/0022-3514.78.5.889>
- Doise, W. (1980). Levels of explanation in the European Journal of Social Psychology. *European Journal of Social Psychology, 10*(3), 213–231.  
<https://doi.org/10.1002/ejsp.2420100302>
- Elster, J. (1989). Social Norms and Economic Theory. *The Journal of Economic Perspectives, 3*(4), 99-117. Retrieved January 20, 2021, from  
<http://www.jstor.org/stable/1942912>
- Fine, G. (2001). Enacting norms: Mushrooming and the culture of expectations and explanations. In M. Hechter & K. Opp (eds.), *Social Norms* (pp. 139–164). Russell Sage Foundation. Retrieved March 10, 2020, from  
[www.jstor.org/stable/10.7758/9781610442800.9](http://www.jstor.org/stable/10.7758/9781610442800.9)
- Fisher, R., & Ury, W. (1981). *Getting to Yes: Negotiating Agreement Without Giving In*. Penguin Books.
- Foot, P. (1967). The problem of abortion and the doctrine of double effect. *Oxford Review, 5*, 5–15.
- Giacomantonio, M., De Dreu, C. K., & Mannetti, L. (2010). Now you see it, now you don't: Interests, issues, and psychological distance in integrative negotiation.

*Journal of Personality and Social Psychology*, 98(5), 761.

<https://doi.org/10.1037/a0017879>

Güth, W., Schmittberger, R., & Schwarze, B. (1982). An experimental analysis of ultimatum bargaining. *Journal of Economic Behavior & Organization*, 3(4), 367–388. [https://doi.org/10.1016/0167-2681\(82\)90011-7](https://doi.org/10.1016/0167-2681(82)90011-7)

Hamilton, P. M. (2000). Attaining agreement: A rhetorical analysis of an NHS negotiation. *International Journal of Public Sector Management*, 13(3), 285–300. <https://doi.org/10.1108/09513550010346161>

Hoeffler, S. and Ariely, D. (1999). Constructing Stable Preferences: A Look Into Dimensions of Experience and Their Impact on Preference Stability. *Journal of Consumer Psychology*, 8(2), 113-139.

[https://doi.org/10.1207/s15327663jcp0802\\_01](https://doi.org/10.1207/s15327663jcp0802_01)

Ingerson, M.-C., DeTienne, K.B., & Liljenquist, K.A. (2015). Beyond Instrumentalism. *Negotiation Journal*, 31(1), 31-46.

<https://doi.org/10.1111/nejo.12078>

Jochemczyk, L. W., & Nowak, A. (2010). Constructing a network of shared agreement: A model of communication processes in negotiations. *Group Decision and Negotiation*, 19(6), 591-620. <https://doi.org/10.1007/s10726-009-9165-y>

<https://doi.org/10.1007/s10726-009-9165-y>

Kelman, H. C. (1958). Compliance, identification, and internalization: Three processes of attitude change. *Journal of Conflict Resolution*, 2(1), 51–60.

<https://doi.org/10.1177/002200275800200106>

Keough, C. M. (2017). Negotiation and Bargaining. In C. R. Scott, J. R. Barker, T. Kuhn, J. Keyton, P. K. Turner, & L. K. Lewis (eds.), *The International*



*Encyclopedia of Organizational Communication.*

<https://doi.org/10.1002/9781118955567.wbieoc147>

Lax, D. A., & Sebenius, J. K. (1986). Interests: The measure of negotiation.

*Negotiation Journal*, 2(1), 73–92. <https://doi.org/10.1111/j.1571-9979.1986.tb00339.x>

Lewicki, R. J., Saunders, D. M., Minton, J. W. (2020). *Negotiation*. McGraw-Hill.

Legros, S., & Cislighi, B. (2020). Mapping the social-norms literature: An overview of reviews. *Perspectives on Psychological Science*, 15(1), 62–80.

<https://doi.org/10.1177/1745691619866455>

Mansbridge, J., Bohman, J., Chambers, S., Estlund, D., Føllesdal, A., Fung, A.,

Lafont, C., Manin, B. and Martí, J.I. (2010). The Place of Self-Interest and the Role of Power in Deliberative Democracy. *Journal of Political Philosophy*, 18(1), 64-100. <https://doi.org/10.1111/j.1467-9760.2009.00344.x>

Nash, J. (1950). The Bargaining Problem. *Econometrica*, 18(2), 155-162.

<https://doi.org/10.2307/1907266>

Ostrom, E. (1990). *Governing the commons: The evolution of institutions for collective action*. Cambridge University Press.

Peleckis, K., & Peleckiene, V. (2015). Persuasion in business negotiations: Strategic orientations and rhetorical argumentation. *Universal Journal of Management*, 3(10), 413-422. <https://doi.org/10.13189/ujm.2015.031006>

Pruitt, D. G. (1983). Strategic Choice in Negotiation. *American Behavioral Scientist*, 27(2), 167–194. <https://doi.org/10.1177/000276483027002005>

Putnam, L. L. (1994). Challenging the assumptions of traditional approaches to negotiation. *Negotiation Journal*, 10(4), 337–346.

<https://doi.org/10.1111/j.1571-9979.1994.tb00033.x>

- Putnam, L. L. (2004). Dialectical tensions and rhetorical tropes in negotiations. *Organization Studies*, 25(1), 35–53.  
<https://doi.org/10.1177/0170840604038179>
- Putnam, L. L. (2010). Negotiation and discourse analysis. *Negotiation*, 26(2), 145–154. <https://doi.org/10.1111/j.1571-9979.2010.00262.x>
- Raiffa, H. (1982). *The Art and Science of Negotiation*. Harvard University Press.
- Riley J. (2008). Utilitarianism and Economic Theory. In Durlauf & L. Blume (Gen. Eds.) *The New Palgrave Dictionary of Economics* (2nd Edition). Palgrave Macmillan. [https://doi.org/10.1057/978-1-349-95121-5\\_2052-1](https://doi.org/10.1057/978-1-349-95121-5_2052-1)
- Ryan, R. M., & Deci, E. L. (2017). *Self-determination Theory: Basic Psychological Needs in Motivation, Development, and Wellness*. Guilford Publishing.
- Schuster C., Majer J.M., & Trötschel R., (2020). Whatever we negotiate is not what I like: How value-driven conflicts impact negotiation behaviors, outcomes, and subjective evaluations. *Journal of Experimental Social Psychology*, 90, Article 103993. <https://doi.org/10.1016/j.jesp.2020.103993>
- Semin, G. R., & Cacioppo, J. T. (2008). Grounding social cognition: Synchronization, coordination, and co-regulation. In G. R. Semin & E. R. Smith (eds.), *Embodied Grounding: Social, Cognitive, Affective, and Neuroscientific Approaches* (pp. 119–147). Cambridge University Press.  
<https://doi.org/10.1017/CBO9780511805837.006>
- Sen, A. (1977). Rational Fools: A Critique of the Behavioral Foundations of Economic Theory. *Philosophy & Public Affairs*, 6(4), 317-344. Retrieved October 11, 2020, from <http://www.jstor.org/stable/2264946>
- Schwartz, B. (1987). *The battle for human nature: Science, morality and modern life*. WW Norton & Company.

- Stigler, G., & Becker, G. (1977). De Gustibus Non Est Disputandum. *The American Economic Review*, 67(2), 76-90. Retrieved January 19, 2021, from <http://www.jstor.org/stable/1807222>
- Thompson, L. (1990). Negotiation behavior and outcomes: Empirical evidence and theoretical issues. *Psychological Bulletin*, 108(3), 515–532.  
<https://doi.org/10.1037/0033-2909.108.3.515>
- Thompson, L. L. (2020a). *The mind and heart of the negotiator*. Pearson.
- Thompson L. (2020b). Win-Win Negotiation in a Global Economy. In: Pfeffermann N. (Ed.) *New Leadership in Strategy and Communication*. Springer, Cham.  
[https://doi.org/10.1007/978-3-030-19681-3\\_3](https://doi.org/10.1007/978-3-030-19681-3_3)
- Thompson, L. L., Wang, J., & Gunia, B. C. (2010). Negotiation. *Annual Review of Psychology*, 61(1), 491–515.  
<https://doi.org/10.1146/annurev.psych.093008.100458>
- Ury, W. L., Brett, J. M., & Goldberg, S. B. (1988). *Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict*. Jossey-Bass.
- von Neumann, J., & Morgenstern, O. (1944). *Theory of Games and Economic Behavior*. Princeton University Press.
- Walton, R. E., & McKersie, R. B. (1965). *A behavioral theory of labor relations*. McGraw-Hill.
- Warren, M. E., & Mansbridge, J. (2013). Deliberative negotiation. In J. Mansbridge & C.J. Martin (Eds.) *Negotiating agreement in politics* (pp. 86-120). American Political Science Association.
- Whittle, A., & Mueller, F. (2011). The language of interests: The contribution of discursive psychology. *Human Relations*, 64(3), 415-435.  
<https://doi.org/10.1177/0018726710386395>