



Evaluating Our Evaluation: Rethinking Student Assessment in Negotiation Courses

*Noam Ebner, Yael Efron & Kimberlee K. Kovach**

Editors' Note: Surveying the history of the first thirty years of assessment of negotiation students, the authors find a great deal of creativity, but also a great deal of illogic. To set the stage for the detailed chapters which follow, the authors analyze the multiple purposes behind assessment, and outline a range of possibilities. They also identify seven criteria which any responsible evaluation system should try to satisfy, and discuss a key distinction: the different purposes of formative and summative assessment. It is essential, they contend, that modern systems of assessment address both.

Introduction

This chapter reflects, in itself, an evolutionary process in reflecting on the methods which we as teachers use in our evaluation. Beginning as a piece on an individual assessment method, it expanded to a point where we found ourselves reconsidering overall aspects of our evaluation. This, in turn, prompted us to invite others to join us in doing so – resulting in this chapter serving to anchor other writings on the “assessing ourselves” aspect of this book’s title. The expansion in scale, and the enthusiasm we encountered when inviting others to share their own work and thoughts, serve to emphasize the fundamental challenge and opportunity presented to teachers who must assess their students in negotiation courses.

* **Noam Ebner** is an assistant professor at the Werner Institute at Creighton University’s School of Law, where he chairs the online master’s degree program in Negotiation and Dispute Resolution. His email address is noamebner@creighton.edu. **Yael Efron** is the Head of Academic Administration and a law teacher at the Zefat College School of Law in Zefat, Israel. Her email address is yaele.law@gmail.com. **Kimberlee K. Kovach** is the director of the Frank Evans Center for Dispute Resolution and a distinguished lecturer in dispute resolution at South Texas College of Law. Her email is k2kovach@yahoo.com.

This challenge, and this opportunity, are not to be taken lightly, or dealt with by rote. At the heart of this chapter – indeed, of this whole volume – is the suggestion that as teachers, we need to rethink our current evaluation methods, and take more conscious control (to the extent possible, of course) of their application. This contrasts with what we suspect is often a strong role played by chance by our own vague intuition, or by institutional whimsy. To allow this rethinking to develop, we suggest that there needs to be a clear, pedagogically-focused discussion of evaluation methods, resulting in a toolbox of methods suitable specifically for use in negotiation courses. Lacking such a toolbox, teachers run the risk of encountering or *causing* pedagogical error, of several sorts.

Evaluating Who? Evaluating What?

The term “evaluation” in negotiation education can be applied to multiple contexts: evaluation of teacher performance, of student performance, of study-program effectiveness, of negotiation skills development, and more. Three differentiations between these contexts stand out: *Who* is being evaluated, *what* is being evaluated, and *what context* is the evaluation being carried out in?

Carefully choosing our words, we are very interested, as teachers, in the ways in which we are to evaluate our students, as we grade them on their learning. This answers the first two questions (although it is not really quite that that simple, as we will discuss later on).

The third, contextual question divides (painting with a broad brush) between academic studies and professional training. Previous thought and writing in this project has been dedicated to the evaluation of short, non-academic negotiation training programs, such as the two workshops which served as test cases or observatory laboratories for some of the writing in the first two volumes in this series. Of course, the notion that learned skills and material should be retained for employment by participants is common to both the academic and corporate settings. Therefore, similar questions regarding measuring the extent to which the educational venture achieved its goals arise from both types of contexts. (For more on evaluation of non-academic training programs, see Cohn et al. 2009.)¹ However, training programs and academic courses are quite different in many other ways: goals, resources, motivations, types of material covered, time, etc. As evaluation of professional training has already been addressed, we will be targeting, in this chapter – as will the authors of most of the other pieces in this book – the topic of evaluating *student performance* in *academic courses* on negotiation. This chapter will provide an overview of the topic, describe the state of its art and discuss current themes regarding

student evaluation. In subsequent chapters, individual methods will be discussed, some of them innovative approaches, others more familiar.

Evaluation Methods: Where Do They All Come From?

Why assess students in the first place? Frankly, some of us are obligated to “grade” our students because of requirements set by the institution in which we teach; assigning a number or letter to a student’s performance in a negotiation course is not intuitive for some teachers. However, beyond fulfilling teachers’ contractual obligations, evaluation serves a number of purposes. Chief among these are determining students’ achievements, serving as an integral element of the learning process, and determining the effectiveness of *teaching*.²

Despite the centrality given to assessment in academic frameworks, teachers of negotiation are not, for the most part, trained in teaching or in evaluation of academic performance. This state of affairs is not unique to the negotiation field. Indeed, in many areas requiring practical expertise, experts are hired to teach without their having formally gained expertise in teaching, leaving a pedagogical vacuum of sorts.

As a result, many negotiation teachers’ approaches to evaluating courses are a mixture of their own experience as students, the evaluation methods in the negotiation course(s) they themselves have taken, and their own intuition. Sometimes, these methods might be expanded or changed as a result of peer feedback or of departmental/university course reviews. Labor-intensiveness (a heavy teaching load, a large number of students in the course, the availability of teaching assistants and their ability to participate in evaluation) also affects teachers’ choices in this area, as does one’s personal perspective on the educational process. It seems that there is little systematic analysis on the part of teachers when considering and choosing evaluation methods. We have certainly noted this while reflecting on the development of our own evaluation methods, and it has resonated with the many teachers with whom we have had discussions on the topic.

This problem is not solved through incorporating institutional wisdom. Certainly, in some academic environments the evaluation methods are predetermined by the institution, allowing for little, if any, discretion on the part of the teacher. Unfortunately, these imposed methods are not the outcome of leveraging institutional resources to provide scientifically sound methods for evaluating student performance. Rather, they are more likely to reflect a framework’s learning culture. For example, in legal education frameworks in the United States, some teachers are (or may be) required to give a “blue book” examination in negotiation courses, even though the subject matter might not lend itself to such evaluation in the same way that other, perhaps more traditional, law courses do.³ We have encountered

other non-contextual institutional impositions or “recommendations,” such as “papers, not tests!”, “no grade for classroom participation” or “no taking points off for student absences from class.”

Evaluation: Always in Process

Evaluation is not something that happens at a specific point in time, at the end of the course. Rather, evaluation is a creature with a life of its own, and it is *always* present in the classroom, from the moment students first open the course syllabus, until the moment final grades are in (or, the final appeals have been decided). In practice, experienced teachers know that the life-span of evaluation is even longer. It begins when students ask the previous year’s students what grades they have received (often framed as how tough a grader the teacher is) and what types of assessment tasks were assigned, as a substantive part of their course-selection decision; it ends when they pass their opinion on to the next generation of students.⁴ Throughout its life-span, evaluation affects the classroom, student motivation and behavior, student-teacher communication and, quite simply, learning.

Evaluation: Effects and Considerations

Grading and learning

Allison Bone framed the impact of assessment methods on student learning in the field of legal education thus:

Assessment methods and requirements probably have a greater influence on how and what students learn than any other single factor. This influence may well be of greater importance than the impact of teaching materials (1999: 2).

We have known this in the negotiation field for a long time. As Gerald Williams and Joseph Geis, citing Williams (1984), suggested more succinctly: “Grading policies strongly influence what students learn from the class” (2000: 210).

We are all familiar with the direct ways in which evaluation affects learning (picture the yawning student who raises his hand, as you are enthusiastically giving an example, and asks “will this be on the test?”). This, in itself, makes having a well-thought out evaluation approach in place a powerful pedagogical tool: Finally, we discover, we *can* affect what they learn!

Another way in which evaluation directly affects learning is through providing formative feedback to students. Grading, as we have noted, is not just a discrete act at a given point in time, but rather a part of an educational framework – in this case, a negotia-

tion course – which includes a significant temporal element. In fact, it is the opportunity to improve through working on their skills and tendencies that often serves as a primary source of motivation for negotiation students. Assessment, therefore, should be designed to improve one's performance over time. This requires a system in which continued feedback is provided to the student (Wiggins 1998). Evaluation being, in its own self, a *learning* tool is at the core of the notion of formative assessment, which we will discuss further below.

Grading affects learning in indirect ways as well. Certainly, as noted, evaluation serves as a motivator to learn the material, for students desiring to earn a satisfactory, or even exemplary, grade. Some students may also find that the evaluation process serves as an incentive for learning just by virtue of how it adds external value to the learning process itself.

Walking our own talk

Student learning is not the only consideration justifying rethinking and reevaluation of the evaluation methods we use. Another consideration has to do with modeling what we are teaching. As negotiators, we strive to be expert communicators, and seek to pass this ability on to our students. Grades are perhaps the *primary* teacher-student communication tool. They are the main vehicle through which we convey our impressions and opinions to our students regarding their work. This holds true for the assessment method itself. For example, the questions posed on a test not only evaluate, they also teach the student what a teacher values; in other words: what is chosen to be tested is what we deem to be important (Wiggins 1998: 42). However, grades are a blunt tool at the best of times. We cannot afford a lack of coherence or congruence in grading, because of the mixed messages this sends to students.

Our students, our mirror

Communication is a two-way street. Evaluation performance also communicates how well the instructor has taught (Angelo and Cross 1993). This may include matters such as the effectiveness of a teacher's course design, how well she conveyed the material, or whether she structured the classroom in ways conducive to learning. In essence, then, when we measure students, we also receive feedback on our own performance.⁵ Clarity in our communication to students grants us clarity as we interpret the meaning, for our methods, of their achievements.

Student equality

Evaluation methods are not neutral, impartial or even objective. By their very nature they are particularly suited to elicit certain levels of performance from certain types of students. Some types of evaluation

tools (including, particularly, some types that seem to be currently favored in negotiation courses, as we shall discuss) favor particular types of students, while handicapping others. Students have different styles of information-processing as well as different capacities for expression through various media – and evaluation needs to take this into account. This is not to discredit any particular attempt at student evaluation, of course, but rather to offer a caveat, that by assuming that all students are equal in the face of any given learning assessment tool, we are inviting inequalities into the assessment process so far as summative evaluation is concerned, and misguidance of students so far as formative evaluation is concerned. A hallmark of a well-thought-out approach to evaluation, then, would be incorporation of different types of evaluation methods into a single course, as will be discussed below.

The goal determines the starting line

When we evaluate students, we need to be clear on what we aim to measure. Two approaches might be:

- 1) Assessment of what the student knows or can demonstrate/exhibit at a given point in the course, regardless of where and how that understanding/knowledge or skill set was obtained or developed;
- 2) Assessment of what the student has “learned” throughout the course.

The former takes into account point-of-assessment knowledge or abilities in an absolute manner, disregarding student improvement as such. The latter approach focuses on improvement, or a student’s progress throughout the course. Teachers adopting the first approach need only measure ability vis-à-vis the learning objectives. Teachers adopting the second must take into account what the student brings to the course – each student’s individual starting line, not just a single, teacher-posed goal line (Wiggins 1998).⁶

Subjective and objective evaluation

Evaluation methods range across a spectrum from subjective to objective:

Purely objective assessment indicates evaluation which is conducted without any application of teacher discretion, at least after the assessment exercise has been designed. On the far end of the scale, we might encounter a test consisting of true/false or multiple choice questions, graded by a computer. When using such an objective approach, teachers know precisely what it is students are supposed to focus on and what they are supposed to answer. This might allow them to develop the criteria or rubric and distribute it to students in advance, providing them a study-guide. This transparency in the na-

ture of evaluation allows students a clear picture of what they need to do in order to achieve their set goal of success in the course. It also illuminates to the students what the teacher deems central to the course.

Many teachers, of course, do not see the need to provide students with a study guide before giving a test. As a result given what we know about partisan perceptions, and recognizing that teachers often spend a great deal of class time on tangents and anecdotes, such “objective” measures might not be as objective as intended (for more on using quizzes and tests, see Ebner and Efron, *Pop Quiz*, in this volume). Another type of objective measure used in negotiation student evaluation is awarding points for achieving specific outcomes in negotiation simulations (for discussion of this method, see Ebner and Kovach 2010).

A purely subjective assessment in a negotiation course would be a tactic such as asking students to evaluate how much they feel they have learned in the course. While we have not yet encountered teachers specifically awarding a significant part of the course grade based on such a highly subjective measure, it probably does find its way into the grading system through other methods such as points awarded for “course participation” (for more on this method, see Ebner and Efron, *Black Box of Student Evaluation*, in this volume) or student interviews (see Fuller, *Interviews as an Assessment Tool*, in this volume, on use of this method in the context of academic courses; and Delicado et al., *Assessing Negotiation Competitions*, in this volume on its use in the context of assessing negotiation competitions). Many other common methods for assessment are subjective to different extents, such as the review of journals (see McAdoo, *Reflective Journal Assignments*, in this volume), certain types of written papers, answers to essay-type questions in examinations or evaluating a live or recorded negotiation exercise (see Manwaring and Kovach, *Using Video Recordings*, in this volume). Even as these methods allow for considerable teacher feedback to students, they also incorporate much more discretion on the part of the teacher than do more “objective” methods. Often, subjective evaluation allows for teachers to appreciate their students’ individual approaches to the course material; however, it is not without risks. Students might find it hard to learn from their subjective shortcomings, or might take offense at being judged according to criteria which seem to be invented after-the-fact; this might also trigger in-class teacher-student disconnect or tension, posing a threat to a student’s (or even a class’s) learning process. Other subjective methods run the further risk of triggering student-to-student alienation. Such is the case in use of innovative “student-directed” subjective evaluation methods, such as Nancy Welsh’s suggestion for applying a Reputation Index (see Welsh, *Making Reputation Salient*, in this vol-

ume) or James Coben's use of student-ranked negotiation outcomes for grading (see Coben, *Empowerment and Recognition*, in this volume.

Validity of evaluation instruments

The validity of an evaluation instrument in a negotiation course is the degree to which the instrument reflects and measures the course objectives as laid out by the teacher. A valid assessment tool is one which will accomplish the purpose for which it was intended (Josephson 1984). We note this seemingly trivial point in order to spotlight a fundamental issue in negotiation course design: What are the goals of the course, so far as student achievements are concerned? Is the goal "skill building" or "knowledge acquiring"? Are teachers aiming at improving students' negotiation performance, at bringing them to a certain benchmark of ability, or at providing them with a strong theoretical base?⁷ Or, is the central object to improve a student's level of understanding and skill-set by a degree that takes into account the individual's "starting point"? These questions may all too often go unexplored. Alternatively, many teachers might say that these are *all* goals of their course. Well thought out and *valid* evaluation methods need to begin with clear delineation and understanding of the course goals, and provide reliable methods for measuring how well students achieved them. (For more on determining and framing specific objectives for courses and training on negotiation, see Wade 2009.)⁸

Reliability of evaluation instruments

The reliability of an evaluation method refers to the degree to which the method is *accurate* at assessing a student's performance. A reliable method will be one which yields the same result on repeated trials (Josephson 1984). When choosing an evaluation method, we must be on the lookout for elements of unreliability inherent in the method or the way it is applied. Simply, there are areas in which you might not always assign grades based on the considerations that you originally decided on. To use examples common to negotiation courses, written papers include the potential for a student's writing skills to impress an evaluator and cover up for superficial content; evaluating simulations runs the risk of teachers allowing a student's dramatic flair to cover up for a lack of negotiation skill.

Disciplinary culture, interdisciplinary confusion

Evaluation methods need to take into account not only students' learning and expression styles, but also the norms and culture regarding evaluation in the discipline or framework in which the negotiation course is being given. This requires thoughtful consideration by a teacher teaching a course inside his or her disciplinary frame-

work; so much the more, when the negotiation teacher is teaching in a framework *outside* their own discipline. As negotiation is both a relatively young field of academic teaching and a multidisciplinary area of study, it is not uncommon to encounter a teacher with a background in law teaching negotiation to social workers, or an instructor with a background in business or psychology teaching law students. This might result in teachers using evaluation methods characteristic of their own discipline, yet foreign to the students they are teaching.

As noted, the most commonly used evaluation method in legal education thus far, the blue book essay examination, is required in some ADR courses, although many teachers supplement this with journals, interviews, and other methods (see, e.g., McAdoo, *Reflective Journal Assignments*, in this volume; Fuller, *Interviews as an Assessment Tool*, in this volume; Manwaring and Kovach, *Using Video Recordings*, in this volume; LeBaron, *Portfolio Evaluation*, in this volume; as well as Williams and Geis 2000). Although end-of-semester blue book examination is ineffective as a *learning* tool (Stuckey et al. 2007) it is, in fact, what the legal education culture embraces, and what students learn to expect. This disconnect between learning and evaluation seems to us to need fixing – even if some of the innovative methods described in this volume may appear quite foreign to upper-level law students.

One clear outcome of the discussion above is that use of multiple levels and methods of assessment will likely provide the most comprehensive understanding of the student's accomplishments. In other fields of study, such as in medical education, it has been recognized that no single method of evaluation is adequate to measure all aspects of knowledge, skills and problem solving, and multi-format assessment is now seen as vital (Wojtczak 2001). Similarly, in negotiation student assessment, multi-modal evaluation will allow for measurement of different elements of negotiation process and theory. In addition, the use of multiple methods allows students with different strengths to be assessed in different ways, which allows more feedback, and hence more learning (Stuckey et al. 2007) as will be discussed below.

As Gregory S. Munro, Professor of Law and Director of Professional Skills Clinics at the University of Montana, put it:

A valid, reliable, and fair picture of the student's ability is much more likely to exist if the measures are done several times using different modes of evaluation (2002: 237).

Based on the above, we are beginning to form a general picture of what is needed in order to provide precise, clear and instructive assessment: a two-dimensional breakdown of evaluation – employing a *range* of methods (subjective and objective), over a *timeline*. Before expanding

on this notion any further, though, we turn to exploring the practices of the field. How do negotiation teachers evaluate their students now?

State of the Art: Evaluation of Negotiation Courses

Few comparative reviews have been conducted on negotiation course evaluation. A particularly valuable study is Gerald Williams and Joseph Geis' (2000) comparative survey of negotiation courses in law schools, which included some findings on evaluation methods. They employed a dual methodology in their survey. First, they surveyed journal publications, authored by course teachers, describing negotiation courses. Next, they solicited negotiation course syllabi from colleagues teaching in U.S. law schools. After presenting their findings with regards to specific evaluation methods, we will seek out and discuss trends in their findings. We will occasionally augment this discussion by inserting examples from journals and syllabi from other fields, which support the suggestion that Williams and Geis' portrayal of the state-of-the-art in legal education is indicative of negotiation teaching across a range of disciplines.

The first finding that stands out in Williams and Geis' survey of various issues in negotiation teaching is that they found grading criteria and grading methods to be *the area of greatest variation* among negotiation teachers (2000: 210). This, in itself, provides justification for exploring this topic at length in this chapter, and indeed for dedicating a volume to this issue in the Rethinking Negotiation Project's body of writing. Their findings were arranged in a comparative chart, from which we drew the following data (Williams and Geis 2000: 216-220):

In four of the courses surveyed, teachers found the best way to handle the difficulties of grading was to award a pass/fail indication on individual assignments or for the entire course.⁹

In nearly a third of the courses (six of twenty), the outcomes of students' negotiation simulations served as a grading criterion. In most of these courses, the focus was on the outcome proper; only one teacher focused instead on skill-mastery and process management – and even that teacher stressed use of an objective measurement scale for these issues, allotting points whenever the students had been shown to master a selected set of skills, outcome notwithstanding. This tendency towards objective outcome measurement (as opposed to measuring process and skills, which appears to be the norm for assessing participants in negotiation competitions, see Delicado et al., *Assessing Negotiation Competitions*, in this volume) is reflected in Howard Raiffa's (1982) evaluation approach, applied in business-school courses, in which one-third of the student's final course grade was based on a calculation of their

outcomes in their role-plays with one another. Interestingly, one method located on the objective side of the spectrum – quizzes – was notably absent in the courses surveyed (for further findings regarding use of quizzes, see Ebner and Efron, *Pop Quiz*, in this volume).

Moving towards the subjective side of the evaluation spectrum, “term papers” were a part of the grading criteria in four of the twenty courses, although this generic term probably reflects quite different exercises. Similarly, “exams,” which likely intend the same type of analytical and/or reflective task as “term papers” – only written in a monitored, time-constrained setting as opposed to at home – were given in six of the courses. It is difficult to know exactly how objective or subjective these assignments were, given that the survey did not include assessment rubrics or the assignments themselves.

Although evaluation is generally considered the teacher’s turf, in three of the courses surveyed students themselves had an impact on their own grading process. This was done either by negotiating the grade with the teacher, or negotiating for grades in class, amongst themselves. Similar approaches have been adopted in courses taught in business schools, exemplified by Roger Volkema’s (1991) assigning his students the task of negotiating with him for their grades, and Rick Voyles’s assigning of students to negotiate with each other for their share in a given amount of points to be allotted for a final assignment (see Ebner and Kovach 2010). Other chapters in this volume explore further methods of direct student involvement, including reputation indexes (see Welsh, *Making Reputation Salient*, in this volume) and student ranking of negotiation outcomes (see Coben, *Empowerment and Recognition*, in this volume).

The most popular evaluation method by far (used in fourteen of the twenty courses) was assigning students to capture written reflections and introspection in the form of journals, which were then evaluated and graded.¹⁰ In order to estimate whether this method continues to enjoy the same popularity today, we surveyed negotiation course syllabi in a database maintained by the Alternative Dispute Resolution Section of the Association of American Law Schools¹¹ and another by Harvard’s Program on Negotiation Clearinghouse.¹² We discovered that out of seventeen available syllabi detailing the grading elements of the course, fifteen included journals or some other form of written reflection as part of the grading system.¹³

Journals usually contain a subjective self-analysis by the student of his or her performance in the course. Often, the actual grading of these journals is a highly subjective process. Teachers attempt to estimate students’ degree of effort and insight regarding the issues they wrote about, but do not always assign them specific elements to write

about, or particular models for analysis to apply; specific bottom lines are also often avoided. All or some of these are left to students' discretion. In other courses a less subjective grading method is used, with the instructor, looking for specific predetermined items in the paper and awarding the grades accordingly (for more on using reflective journals, including discussion of different degrees of teacher directiveness, see McAdoo, *Reflective Journal Assignments*, in this volume).

Negotiation Student Evaluation: Trends and Themes

In this section we will discuss themes we have noticed regarding negotiation course grading methods, having reflected on the several dozens of courses we have seen surveyed in Williams and Geis' article, the syllabi databases noted above, other literature, our own experiences in evaluation design and our conversations with colleagues. As we do so, we will point readers towards other chapters in this book that deal with the issues raised.

Objective/Subjective Measures for Evaluation

The tension created over subjective forms of grading and the need for objective grading criteria concern both students and teaching faculty (Williams and Geis 2000: 210). Many courses incorporate both objective and subjective methods; we suggest that explaining the reasoning behind a mixed-methods approach explicitly in the course syllabus might go a long way towards reducing this tension. Additionally (while admittedly sometimes difficult to do), some criteria-chart or rubric prepared in advance for the more subjective assessments, such as evaluating process skills in a negotiation simulation or writing reflective journals, might also reduce this tension.

Summative/Formative Assessment

In the literature on education, two primary purposes of, and approaches to, assessment have developed:

Summative evaluation seeks to "sum up," through some mode of assessed demonstration, what a student *has learned* during the entirety of a course. Alternatively, depending upon design, summative assessment may measure what a student *knows* at the end of the course, irrespective of the source of that knowledge.

Formative assessment, on the other hand, is the use of assessment tools to help shape a student's learning. A simple definition states that a formative assessment is assessment for learning purposes (Bennett 2011). Conducting evaluation and providing feedback throughout the duration of a course provides students with opportunities for continued learning and improvement. Formative assessment can be formally

structured, taking the form of pop quizzes or mid-semester examinations. It can also be conducted through less formal and less structured means, which can be quickly integrated into the class work. These might include teacher or peer feedback on a point made or on a student's performance in a simulation, discussion groups or opportunities for self-assessment (Stuckey et al. 2007). The most critical aspect of formative assessment is that feedback be provided to the student; the numerical grade is seen as support for the actual feedback (as opposed to feedback being presented in order to justify a grade). Paul Black (1998, as cited by Brookhart 1999) brought the separate natures of summative and formative assessment home by suggesting that "[w]hen the cook tastes the soup, that's formative assessment; when the customer tastes the soup, that's summative assessment."

With each of these ends in mind, there is great variation in the actual methods which instructors can employ. However, perhaps more important than the method chosen are the timing and the nature of instructor feedback. For example, one familiar summative assessment tool is administering a quiz on the material covered. However, given in the middle of a course rather than at the end, a quiz might provide important *formative* information to students – e.g., what their weak areas are, or how their study habits need to be improved. An end-of-course quiz returned to a student together with an individualized teacher explanation of the questions missed and of how the teacher views the student's understanding as a whole, based on the quiz, also contains strong formative elements (see Ebner and Efron, *Pop Quiz*, in this volume).

Most of the negotiation courses we have surveyed seem to combine formative and summative assessment. We would suggest that this trend should continue, with increased attention paid to conscious differentiation between the two elements. For example, consider the conscious distinction made between the *debriefing* (formative) and the *grading* (summative) elements of assessment methods such as student interviews (Fuller, *Interviews as an Assessment Tool*, in this volume) and simulation-design (Ebner and Druckman, *Designing Simulation Games*, in this volume).

Clarity of Purpose: Progress, Skills and Knowledge

As we have discussed, there might be many ways to frame the goals of a negotiation course. Teachers might aim to improve students' skills, to have them reach a particular benchmark in terms of skills, or to attain a particular body of knowledge. Reading over syllabi, one is often struck by ambiguity regarding these, or by teachers' well-intended efforts to achieve all three (and often other goals as well; these are only common examples). There seems to be some hesita-

tion to coming out and stating that the purpose of a course is solely *applied negotiation expertise*, resulting in grading of actual performance. Some teachers certainly do include this as a part of the course objectives, resulting in part of the grade being based on simulation outcomes, or on negotiating for grades. A “softer” form of this is stating objectives of obtaining (or improving) skills – resulting in grading students on their actions in negotiation situations (disregarding the effect these actions had on the negotiation’s final outcome).

Given the academic backdrop for even the most skills-oriented of negotiation courses, teachers usually include “knowledge,” “understanding” and even “critique” in their objectives. Some teachers really want to ensure that students understand the *process* of negotiation in a deep sense. The last twenty years have produced much in terms of understanding of negotiation theory as well as new approaches to negotiation. Many of the gains in negotiation pedagogy are a result of research on the theoretical basis of the process and the barriers and impediments challenging its success (Mnookin 1993; Birke 2000). Often, this knowledge of underlying theory directly informs the skills employed by a negotiator. In addition, understanding process-theory guides the student in reflection (by serving as a map to *what* needs to be reflected upon) as well as in conducting actual self-assessment. As a result, many teachers stress this deep understanding not from a theoretical perspective *per se*, but owing instead to an understanding that it is this theoretical knowledge which will allow the student to continue to develop and adapt in practice outside the classroom.

While all of these goals may be worthy, this cocktail – if not addressed intentionally and thoughtfully – can result in evaluation methods which are not perfectly matched with course objectives. Teachers considering their objectives carefully will be able to improve on this state of affairs. For example, teachers aiming to improve students’ skills will need to incorporate a pre-course baseline assessment method in addition to the in-course and post-course assessments they conduct. If a teacher clarifies to herself that her goal in the course is to increase students’ academic knowledge regarding negotiation, then quick quizzes can inform the student (and the teacher) about what is not comprehended about the material. If a deeper level of knowledge, understanding and appreciation of the material is considered the objective, then a more in-depth assignment is appropriate, such as the creation of a comprehensive negotiation plan for a given scenario. This could set out not only the anticipated method of practice, or skill application, but also explain these choices based on theoretical frameworks learned in class. If reaching a benchmark level regarding skills is an objective delineated by a teacher, then this needs to guide

that teacher's approach to assessment (see Fuller, *A Benchmarking System*, in this volume), and specific methods suited for skills assessment need to be developed, such as instructors viewing a video clip of a student participating in a negotiation simulation, with an eye towards capturing particular aspects of the student's behavior (Kovach 1996; Manwaring and Kovach, *Using Video Recordings*, in this volume).

Importance of Self-evaluation

Experts in the field of education have taught us that the ability to be self-reflective is key to learning (Wiggins 1998). This approach seems to have been adopted wholeheartedly by the field of negotiation education, given the primacy awarded to self-reflection in teachers' grading systems. We suggest this tendency be preserved; however, we also recommend clarifying objectives of these exercises as well as criteria for their evaluation. In addition, given that the value of self-reflection holds true not only in the classroom, but throughout professional life as well (Schön 1983), framing this exercise not only as a learning and assessment mechanism but as a life-skill will add much value to the students' skill-set in the future.

Use of Rubrics

Rubrics are detailed criteria which are used in assessing and evaluating students' performance. Rubrics can be very detailed, including specific point allocations, or more general, such as a mere description of how performance will be evaluated on a paper or a simulation. Rubrics can be used for both formative and summative assessments, and can be designed to detail any method of assessment. The use of rubrics enhances learning in multiple ways. These include providing students with a roadmap of sorts which informs them of the skills and knowledge on which to focus; assisting in identifying course objectives, and hence improving class focus; and providing students with more specific feedback (Sparrow 2004). A sample rubric can be found in Delicado et al. (*Assessing Negotiation Performance*, in this volume). The challenges posed by teachers grading in a vague, unspecified manner are discussed in Ebner and Efron, *The Black Box of Student Evaluation*, in this volume.

Interim Conclusions: What Constitutes an Effective Evaluation System?

"It is important to have a well-considered theory of evaluation," writes Bruce Patton, noting that "...the area in which students will be most interested in knowing and discussing a professor's standards is in the area of grading" (2000: 44).

This would indicate that a teacher's grading system needs to be:

- 1) Well-thought-out and theoretically grounded;
- 2) Made very clear to students; and
- 3) Applied consistently by the teacher.

These three points seem intuitive, but as we have pointed out in our introduction, perhaps they are *so* intuitive that we overlook them when we actually approach a class, and a refresher might be helpful.

We would suggest adding four further points, recommending that a teacher's grading system also needs to be:

- 4) Designed to *elicit* or *promote* learning, in addition to evaluating performance;
- 5) Inclusive of different types of evaluation methods;
- 6) Appreciative of technological and pedagogical advances in negotiation teaching and evaluation, and
- 7) Carefully designed to tap and measure the course's stated objectives in a valid and reliable manner.¹⁴

Each of these four new elements is detailed below.

A Teacher's Grading System Needs to be Designed to Elicit or Promote Learning, in Addition to Evaluating Performance

Going beyond a more traditional approach to formative assessment, in which both the feedback and grade a student receives are intended to improve their knowledge or learning ability, we suggest that any evaluation exercise should constitute, in and of itself, a *learning activity*. By subscribing to this approach, teachers are using every moment of class-related time to help students grow, including the moments ordinarily dedicated to evaluation. Additionally, this approach results in a win/win situation when students, acting as students are prone to do, fall into the trap of grade-oriented learning, or as Patton warns: "... grades... may become ends in themselves, distorting student priorities" (Patton 2000: 44). If evaluation methods are thoughtfully designed as learning opportunities, then students targeting good grades in their approach to studying will, albeit inadvertently, engage in structured learning. One example of an assessment tool designed around a learning experience would be assigning a simulation-design exercise (see Ebner and Druckman, *Simulation Design for Learning*, in this volume).

Alternatively, sometimes the learning opportunity is not to be found only in the actual performance of the evaluated exercise itself, but also in the way students prepare themselves for it. One example of this is discussed in one of the "methods" chapters in this volume, on using quizzes. It is self-evident that *preparing* for quizzes engages students in a particular type of learning, i.e. learning aimed at knowledge retrieval. By incorporating a quiz in the as-

assessment, teachers can assure themselves that students are given the opportunity for this type of learning. This is then reinforced by the learning impact that the actual taking of the quiz has been shown to have (see Ebner and Efron, *Pop Quiz*, in this volume).

A Teacher's Grading System Needs to Incorporate Different Types of Evaluation Methods

Using multiple assessment methods certainly requires more investment of effort by teachers. This must be balanced against the multiple benefits associated with conducting several assessment exercises. Students with different learning and expression styles are offered an opportunity to shine, as well as the opportunity to be evaluated on the basis of measures that present them with a significant challenge.

In addition to personal characteristics, traits and attitudes, we know that culture impacts learning style (Kovach 2009). Similarly, it likely impacts evaluation of performance. Evaluation should be designed to accommodate for these differences. We have all had students who are very proficient in the negotiation process, and appear to understand the theoretical underpinnings of a subject as well as to demonstrate the skills – and yet still do poorly on an examination. Conversely, there are students who do not perform well in the simulations (due to factors ranging from lack of preparedness to shy personality to cultural issues), yet do quite well on a written examination. Multiple methods of assessment or evaluation used in the same course therefore provide a better approach, in terms of reaching all students and accounting for student diversity in learning, knowledge and skill demonstration, etc. Moreover, as noted, different assessment methods can measure distinctive aspects of learning, such as knowledge vs. skill, allowing for fuller and more precise evaluation (Wojtczak 2001).

Combining these last two ideas, we see how multimodal evaluation promotes both equality and true (valid and reliable) assessment. As we have suggested that evaluation exercises be learning opportunities in their own right, this approach also increases students' learning experiences. Just as students differ in learning styles and benefit from multiple teaching approaches, differences are also likely with regard to students' ability to benefit from different approaches to evaluation, in terms of gaining information and improving performance. In order to measure competencies adequately, multiple methods should therefore be used. In addition, as will be displayed in the following chapters in this volume, *any* given assessment technique has limited application. The use of multimodal assessment compensates for the deficiencies in each individual method (American Association of Colleges for Teacher Education 1983).

A Teacher's Evaluation System Needs to Consider the Wealth of Possibilities Offered by Advances in Technology and in Evaluation Methodology

Utilizing advances in technology includes two elements:

First, teachers should consider use of a variety of media to create and conduct accurate and educational assessment tools. For example, teachers who have avoided assessing students on a negotiation simulation, due to the high time-cost involved, might reconsider this in view of the ability to read an e-mail negotiation at much less cost (see Nelken, *Evaluating Email Negotiation*, in this volume). Alternatively, they might assign students the task of video recording a ten minute segment of a role-play, or of editing a video recording of a negotiation simulation down to the most crucial ten minutes in which significant turning points of the negotiation played out (see Williams, Farmer, and Manwaring 2008; Matz and Ebner 2010; Manwaring and Kovach, *Using Video Recordings*, in this volume). Tasks unassigned due to post-term convening difficulties can be conducted online, in discussion forums, through web conferencing software or in virtual worlds (see, for example, suggestions made by Ebner and Druckman, *Simulation Design for Learning*, in this volume).

Second, teachers should provide ways for students to enhance their own performance on assessment tasks through using technology. A good combination of these two elements is incorporating online discussion forums as assessed assignments within traditional, face-to-face courses. Not only might this have positive impact on group dynamics (see Bhappu et al. 2009) and provide the class with another learning opportunity, this also allows certain students to improve their performance, and gives other students new outlets for creativity. We have often encountered students who were markedly reticent in class, but later astounded their teachers and classmates with brilliant performance in forum discussions. These students might receive mediocre grades for "course participation" in a wholly face-to-face class, but that might be more due to their personality, command of spoken language, timidity or other issues irrelevant to assessment than to anything related to their understanding of negotiation.¹⁵ Other students might simply go above and beyond in terms of creativity, or time investment, in an online assignment simply because the e-environment gets their juices flowing. Allowing students freedom in their choice of medium on a self-reflection assignment might result in a change of style powerfully affecting content. A student who strains to match the tone he *thinks* his teacher is looking for in a journal entry (the strain coming at the expense of introspection) might achieve much better insight if he wrote it on a blog, or recorded

and uploaded it as a vlog (video blog). In general, given the way the world works, students will often be more technologically adept than their teachers; listening to their suggestions regarding technology's use in assessment is probably the best way to stay ahead of the curve.

A Teacher's Grading System Needs to Systematically Target All of a Course's Stated Learning Objectives, and Measure Their Achievement in a Reliable and Valid Manner

We have already noted the vagueness with which some – perhaps many – teachers approach the objectives of negotiation courses. Nowhere is this more acute than in the fundamental objectives of a course: Is the objective to gain knowledge? To gain skills that improve students' practical ability in the real world? To increase motivation? Or something else again?

We have also noticed a general movement in higher education toward pre-course statements of course objectives. This trend has, of late, been making inroads in legal education as well, which may be the last bastion of teacher discretion in this sense. Course evaluation, of course, needs to be tightly connected to course objectives, for two reasons. First, it is unfair to evaluate students based on tangential or unrelated material. Second, the relationship between assessment methods and student learning, noted several times in this chapter, will result in students aiming their learning towards whatever the assessment targets are – potentially undermining, from within, the course objectives themselves.

This need to state course objectives clearly, of course, requires teachers to decide them. This might bring teachers to acknowledge that their course is not intended or able to teach everything there is to know about negotiation (this would not surprise us, given that the scope of what might be taught about negotiation has been enlarged by three other volumes of work produced by the Rethinking Negotiation Teaching project). It might even lead them to limit explicitly the goals of the course.

Once this candid choice has been made and shared with students, teachers might find it a lot easier to choose assessment methods suited to measuring achievement of their stated course objectives. For example, if an objective is familiarity with the basic literature of the field, a well-thought-out quiz can be a reliable and valid approach to assessing this. If an objective is demonstrating skillful application of negotiation models or elements, a teacher can review a recorded simulation, observe a live simulation, or negotiate with each student individually. If ability to achieve real results in the real world is a course objective, a carefully designed and assessed exercise in adventure learning would provide a measure of this. If appreciation of the

complexity of relationship management in negotiation settings (see Ebner and Kamp 2010) is an objective, a reflective paper analyzing relational issues in such a setting would be a suitable measurement tool.

These are just examples of common objectives which can be tapped and measured through the methods described in this volume. As teachers further refine their own course objectives, they may find the need to expand on the tools described in this book, and create new assessment tools.

Of course, teachers usually decide on more than one objective for their course – but there is a big difference between identifying three or four primary objectives, and just stating in a general sense that a course is intended to achieve everything that could possibly be achieved – knowledge, skills, real-world application, conceptual appreciation, reflective practice and so on (and on). Even teachers who choose only one objective should apply more than one assessment tool – for reasons of reliability and validity, as well as for reasons of equity, as discussed above and in other chapters in this volume. Teachers who choose more than one objective, however, should enlarge their assessment toolbox significantly further.

Conclusion

Evaluating and grading students' performance in negotiation courses is an art yet to be mastered by teachers and institutions. The sheer variety of issues involved – some of them contradictory – seems to indicate that the perfect assessment method might remain the "Holy Grail" of negotiation teaching – always out of reach, but still worth searching for. This chapter, we hope, is a good start – the rest of this volume certainly is. Beyond that, we look forward to these initial efforts triggering empirical research regarding the use of specific assessment methods within the unique learning framework of negotiation courses.

Notes

¹ Lynn Cohn and colleagues (2009) suggest a new assessment model, based on the well-known model by Donald Kirkpatrick (1994). According to this model of evaluation, four levels of the training's impact should be measured: trainees' reaction to the negotiation training, accomplishment of learning goals, application of improved negotiation skills, and improved outcomes of negotiations. Measuring the first level is suggested to be conducted not only at the end of the training but some time later as well. The writers acknowledge the deterrent effect of the required time investment on both the trainer's and the trainees' behalf. The second level of learning goal achievement is suggested to be measured by the same means we found in the Williams and Geis (2000) survey: observing role-plays, conversing with trainees and reviewing videotaped negotiation. The writers also mention specifically the possibility of administering written examinations. The third level is pro-

posed to be a collaboration between the trainer and the trainees' supervisors. Continuous observation and feedback on the trainees' performance in their real-life negotiations is suggested as the assessment tool. Finally, the fourth level of the model proposes – as in some of the courses surveyed by Williams and Geis – an assessment of the negotiation outcomes, when applicable.

² One other purpose, particularly pertinent to law schools and to some extent business schools, is to provide grades which rank students for employment purposes. This chapter will not address this issue, although we would recommend that teachers grading for the primary purpose of such ranking might also want to achieve other goals discussed in this paper, if only as secondary or as piggyback objectives.

³ Of course, "traditional" end-of-semester blue-book examinations have been highly criticized as providing little true assessment (see Kissam 1989: 435, 462). As commented elsewhere in the text, the method also fails significantly at serving other evaluation goals such as assisting learning and providing motivation.

⁴ In the networked age, students' opinions of their teachers' grading practices enjoy a much longer life-span, preserved for posterity on sites such as ratemyprofessors.com.

⁵ However, there sometimes may be students who will not do well no matter what the content is, how well a course is structured or how the material is presented. These we consider matters beyond the instructor's control – or at least beyond our own ability to provide guidance in this chapter.

⁶ This approach, which some teachers apply intuitively, should require some form of assessment at the beginning of the course, although this rarely seems to be conducted.

⁷ Or is the primary goal to engender such enthusiasm for the field that students will go on learning for themselves after the course is over? The latter course frame, in a field in which course length is widely recognized to be both arbitrary and short, can be powerful, but it requires a completely different mindset. See Honeyman, Coben, and De Palo (2009).

⁸ Course goals might be framed in different styles. For example:

Beyond familiarizing participants with basic negotiation theory, this course is a practice-oriented, skill-building course in negotiation, interpersonal communication and conflict management. Participants will acquire the tools of negotiation analysis, which will teach them to prepare for negotiations by anticipating and identifying potential pitfalls, forming backup plans, and enabling constant learning. They will learn to choose between different strategies, stressing the differences between competitive negotiation and positional bargaining on the one hand, and integrative, joint problem-solving negotiation on the other. They will also learn how to choose and implement tactics consistent with their chosen strategy, and enhance their ability to communicate effectively. Participants will participate in online negotiations and understand the potential benefits and pitfalls of the online environment for negotiations. By on-the-spot practice and application of the new tools students acquire, they will immediately begin to improve their own negotiation skills, allowing them to act consciously and skillfully in tough situations (Ebner 2010).

Or, in more succinct form:

By the end of the course, I expect that you will be able to:

- Prepare effectively for any negotiation
- Articulate the appropriateness of a particular negotiation approach
- Employ and critique effective and ineffective distributive and integrative negotiation techniques
- Employ and critique the use of email technology to conduct a negotiation
- Articulate basic ethical guidelines for attorneys serving as negotiators (McAdoo 2011).

⁹ In one case a pass/fail grade was an option given to the students, under the condition they did not divulge this to other students.

¹⁰ While it is difficult to get a precise picture from Williams and Geis (2000) regarding precisely how these journals were incorporated into the final grade, it would seem as if in most courses they were an individually graded method. In others, they affected the grade given for “class participation,” and in some they may have been a mandatory part of the course without being a specific part of the grade.

¹¹ See http://www.law.missouri.edu/aalsadr/DR_syllabi.htm (last accessed February 29, 2012).

¹² This compilation of syllabi, described at <http://www.pon.harvard.edu/news/clearinghouse-launches-syllabus-collection/> (last accessed March 14, 2012), was available on the PON website at http://www.pon.org/catalog/product_info.php?products_id=333 until the end of 2011. Due to site renovation, the collection is presently inaccessible, but the Clearinghouse administrators anticipate it will be available again sometime in the future.

¹³ To be precise, six of the surveyed courses included weekly journals as part of the students’ grade, while nine others included another reflective product, not written or submitted as regularly.

¹⁴ By suggesting these seven hallmarks of effective evaluation, we are not trying to reinvent the wheel – other authors have offered lists of characteristics. For example, education experts Mary E. Huba and Jann E. Freed (2000), who focus on learner-centered assessment, set out what they term eight characteristics of exemplary assessment tasks: That the task is valid, coherent, authentic, rigorous, engaging, challenging, respectful and responsive. Of course, many negotiation teachers are likely already using methods which incorporate most of the characteristics included on such lists. However, the more intentional and mindful we are about such criteria, the better our teaching will be – which justifies our own exploration of this topic.

¹⁵ Granted, one might say that personality, command of spoken language, timidity or other issues certainly are relevant to one’s skill at negotiation, and therefore should indeed be evaluated. However, the authors have never encountered a teacher giving grades directly relating to character traits. If a teacher were to do so, of course, they would also need to assess such characteristics as “annoying,” “bothersome,” etc.

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