**Teaching Note**

**The Union Negotiation**

06/2024-6922

This teaching note was written by Marcos Bruno, INSEAD MBA Alumnus, under the supervision of Martin Schweinsberg, Associate Professor of Organisational Behaviour at ESMT Berlin, Horacio Falcão, Professor of Management Practice of Decision Sciences at INSEAD, and Eric Uhlmann, Professor of Organisational Behaviour at INSEAD, as an aid to instructors in the classroom use of the role play “*The Union Negotiation*”.

The authors gratefully acknowledge funding from the Hoffmann Institute.

To access INSEAD teaching materials, go to <https://publishing.insead.edu/>.

Copyright © 2024 INSEAD

Copies may not be made without permission. No part of this publication may be copied, stored, transmitted, translated, reproduced or distributed in any form or medium whatsoever without the permission of the copyright owner.

This teaching note is for the instructor and should not be distributed to the students. This negotiation strategy case has a number of key take-aways to share with the class.

Overconfidence, Wishful Thinking, and Fatigue

In this case, Andres often times fell victim of what seems to be a combination of overconfidence, wishful thinking and fatigue. When faced with the dreadful decision to negotiate with the unions that he despised, which would take months of his time and would be an extremely unpleasant interaction, Andres often chose to do something different even if he knew that talking to the union was the RIGHT course of action. Andres was overconfident that he could be successful with different and less rational course of actions than talking to the unions and then again he was overconfident that the unions would either not find out or do nothing about it (Hoffrage, 2004; Weinstein, 1980).

Maybe overconfidence was not the only culprit, but also his wishful thinking (Kunda, 1990), since he emotionally so wanted to avoid the conversations with the union, that he would engage in any other apparently reasonable course of action under any pretext, while wishing with all his heart that he did the right thing.

But even wishful thinking cannot be solely blamed, since Andres, young and inexperienced as he was, may have been cognitively and emotionally overloaded by the time of some of these decisions, since he was trying to impress his father, run a company that was underperforming, deal with unions he disliked, without much support or guidance.

Finally, at times Andres found himself with little sleep, driving hours from one site to another, having what seemed like interminable meetings and still seeing the union creating all sorts of unnecessary problems in the worst of moments. It is not unlikely that Andres suffered from stress and fatigue, thus reducing his ability to make good decisions and incentivizing him to cut corners that proved too risky afterwards (Danziger, Levav, & Avnaim-Pesso, 2011; Kruglanski & Webster, 1996). Fatigue and pressure together could have been too much of a dangerous management cocktail for Andres to take on.

**The take-away:** When making important strategic decisions under stress, emotion or fatigue, seek to validate your choices with a neutral third party or by adopting validated frameworks to ensure proper thinking and good decision-making.

FATNAs

Fantasized Alternative to a Negotiated Agreements (FATNAs) are the main teaching point to share after reaching the point in the story where Andres finds himself at the gas station with The Bull yelling at him (almost at the end of Part 2, right before the questions for class discussion). In opening the second Concrear factory in an isolated region and hoping for no union involvement, Andres relied on a FATNA or Fantasized Alternative to a Negotiated Agreement, rather than a BATNA or Best Alternative to a Negotiated Agreement. In Andres’ cases, his real alternative was risking ended up with a more militant and hostile union at the second Concrear factory.

More generally, the quality of options can only be assessed in light of the available alternatives. For instance, firing an underperforming employee or avoiding a corrupt union only makes sense if this option can be substituted with someone comparatively better. If the alternatives include many even less desirable employees or more militant unions, the best option may be to leave the person in their job or negotiate with the corrupt union.

**The take-away:** In considering their alternatives, negotiators should realistically assess what will really happen if they walk away from or decide to not engage in a negotiation.

Agent-Principal Problems

Recognizing the agent-principal problem was the key to Andres’ negotiation success here (this becomes apparent at the end of the case). The agent negotiating on behalf of the principal often has different incentives from the person or organization they represent. It is in The Bull’s self-interest to gain official recognition of Collective Action and his status as its leader, to take personal credit for good outcomes and deflect blame for bad ones, and to eliminate political opposition and potential rivals within the union. None of this is necessarily in the ideological interests of the initially militant Collective Action organization or in the interests of all of the workers it represents. As a result of the deal, Collective Action lost its brand as an extralegal union that has not “sold out” to the government, and many workers were laid off, in some cases for political reasons rather than their on-the-job performance. According to Leader Member Exchange Theory (LMX), The Bull’s actions in this regard are typical of leaders, who use their position of power to direct organizational resources towards political supporters and away from opponents (Graen & Uhl-Bien, 1995; Graen & Canedo, 2016).

**The take-away:** Understanding the individual incentive structures of all the parties involved can be the key to successfully reaching an agreement.

Negotiation Ethics

This case also raises challenging issues regarding negotiation ethics, a topic which can be introduced during part 5 (the offer) or 6 (the end) and discussed in light of agency problems. Ethical dilemmas often arise when parties have incompatible incentives and conflicts of interest. Andres resolved the strike and labor unrest by colluding with The Bull to satisfy their respective interests at the expense of a subset of the workers (The Bull’s political opponents within Collective Action). Andres' alternative was a prolonged clash with a militant and increasingly aggressive union that could easily have led to the closure of Concrear's second factory, all workers losing their jobs, and disappointing family members who had trusted him with the responsibility of handling labor relations. Does this justify his actions?

Three philosophical perspectives on ethics apply to any decision or action.

1. Consequentialism. From this philosophical perspective, associated with John Stuart Mill and others (Mill, 1863/1998; Smart & Williams, 1973), ethical acts are those that produce the best outcomes (maximize utility). This perspective is reflecting in the saying “The ends justify the means.” Did Andes' actions maximize overall utility? Is agreeing to let The Bull choose who is laid off a better outcome than all of the workers losing their jobs?
2. Deontology. This perspective, associated with Immanuel Kant (1796/1996), argues that ethics are a matter of principle. As a matter of principle, is it permissible for a manager to form an unofficial side agreement with a union official based on the official's personal self-interest rather than that of his constituents?
3. Virtue theory. This perspective, associated with Aristotle and Hume (Aristotle, 4th Century B.C.E./1998; Hume, 1739/1888), asks what a good person would do. Would a person with good ethical character act as Andres did? A related idea is the mirror test: if you did this, how would you feel when you looked in the mirror?

Notably, research shows high status individuals are especially likely to adopt a consequentialist outlook on ethics (Côté, Piff, & Willer, 2013), in part because it is their responsibility as a leader to maximize value for large numbers of stakeholders (Molinsky & Margolis, 2005; Uhlmann, Zhu, & Tannenbaum, 2013). For students heading towards managerial or executive positions, their future may hold not only difficult ethical dilemmas like the one Andres faced, but also an increased tendency to focus on achieving good outcomes rather than matters of principle.

**The take-away:** Three philosophical perspectives on ethics, consequentialism (focused on outcomes), deontology (focused on principles), and virtue theory (focused on character) apply to any situation. These all have legitimacy, and often provide different answers about what the ethical thing to do is, which is why ethical decisions can be so challenging.

How to use this case?

This case can be taught in a couple of ways:

* **Professor as facilitator:** The professor distributes the case, facilitates the questions and the debates, and then presents what happened next in the case and the teaching points.
* **Students as different debate teams:** The professor distributes the case, creates teams of students and then asks each team to argue for a different question, while taking advantage of the merits (risks/rewards) of each answer to highlight learning points.

Important note: Print this document single-sided if handed out to students, so that when asked to turn to the next page they see the next page (as intended), rather than two pages later in the case.

References

Aristotle (4th Century, B.C.E./1998). *The Nicomachean ethics*. Oxford: Oxford University Press.

[Côté, S](http://www.ncbi.nlm.nih.gov/pubmed/?term=C%C3%B4t%C3%A9%20S%5BAuthor%5D&cauthor=true&cauthor_uid=23276265)., [Piff, P.K](http://www.ncbi.nlm.nih.gov/pubmed/?term=Piff%20PK%5BAuthor%5D&cauthor=true&cauthor_uid=23276265)., & [Willer, R](http://www.ncbi.nlm.nih.gov/pubmed/?term=Willer%20R%5BAuthor%5D&cauthor=true&cauthor_uid=23276265). (2013). For whom do the ends justify the means? Social class and utilitarian moral judgment. *Journal of Personality and Social Psychology*, *104*(3), 490-503.

Danziger, S., Levav, J, & Avnaim-Pesso, L. (2011). Extraneous factors in judicial decisions. *Proceedings of the National Academy of Sciences, 108*, 6889–6892.

Graen, G. B., & Uhl-Bien, M. (1995). The relationship-based approach to leadership: Development of LMX theory of leadership over 25 years: Applying a multi-level, multi-domain perspective. *Leadership Quarterly,* *6*(2), 219–247.

Falcão, H. (2012). *Value negotiation: How to finally get the win-win right*. FT Press.

Graen, G. B., & Canedo, J. (2016). *The new workplace leadership development.* Oxford Bibliography on Management. Oxford University Press, N.Y., New York.

Hoffrage, U. (2004). Overconfidence. In R. Pohl, (Ed.) Cognitive illusions: a handbook on fallacies and biases in thinking, judgement and memory. Psychology Press.

Hume, D. (1739/1888). *A treatise of human nature.* Oxford: Oxford University Press.

Kant, I. (1796/2002). *Groundwork for the metaphysics of morals*. New York: Oxford University Press.

Kruglanski, A. W., & Webster, D. M. (1996). Motivated closing of the mind: "Seizing" and "freezing". *Psychological Review, 103*, 263-283.

Kunda, Z. (1990). [The case for motivated reasoning](http://cogsci.uwaterloo.ca/ziva/psychbul1990.pdf). *Psychological Bulletin, 108*, 480-498.

Molinsky, A.L., & Margolis, J.D. (2005). Necessary evils and interpersonal sensitivity in organizations. Academy of Management Review, 30, 245-268.

Mill, J.S. (1863/1998). Utilitarianism. Oxford University Press.

Smart, J. J. C., & Williams, B. (1973). *Utilitarianism: For and against.* Cambridge, UK:Cambridge University Press.

Uhlmann, E.L., Zhu, L., & Tannenbaum, D. (2013). When it takes a bad person to do the right thing. *Cognition, 126,* 326-334.

Weinstein, N.D. (1980). Unrealistic optimism about future life events. Journal of Personality and Social Psychology, 39(5), 806–820.