WHO ARE THESE PEOPLE?
WHY ARE THEY WITH US TODAY?

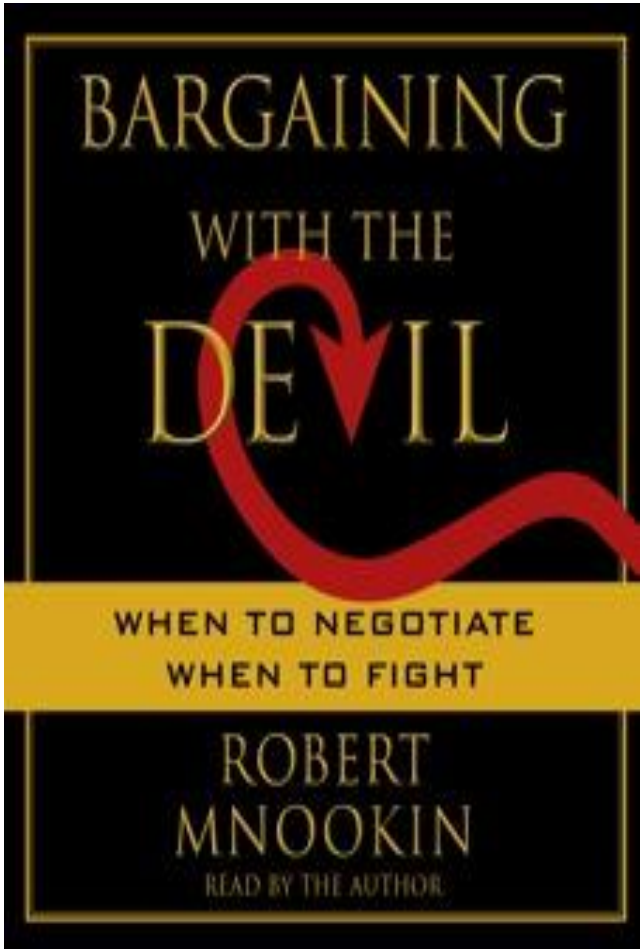
VLERICK BUSINESS SCHOOL

WHEN TO NEGOTIATE (AND WHEN NOT TO)?

"BARGAINING WITH THE DEVIL? WHEN TO NEGOTIATE, WHEN TO FIGHT"

NQ®

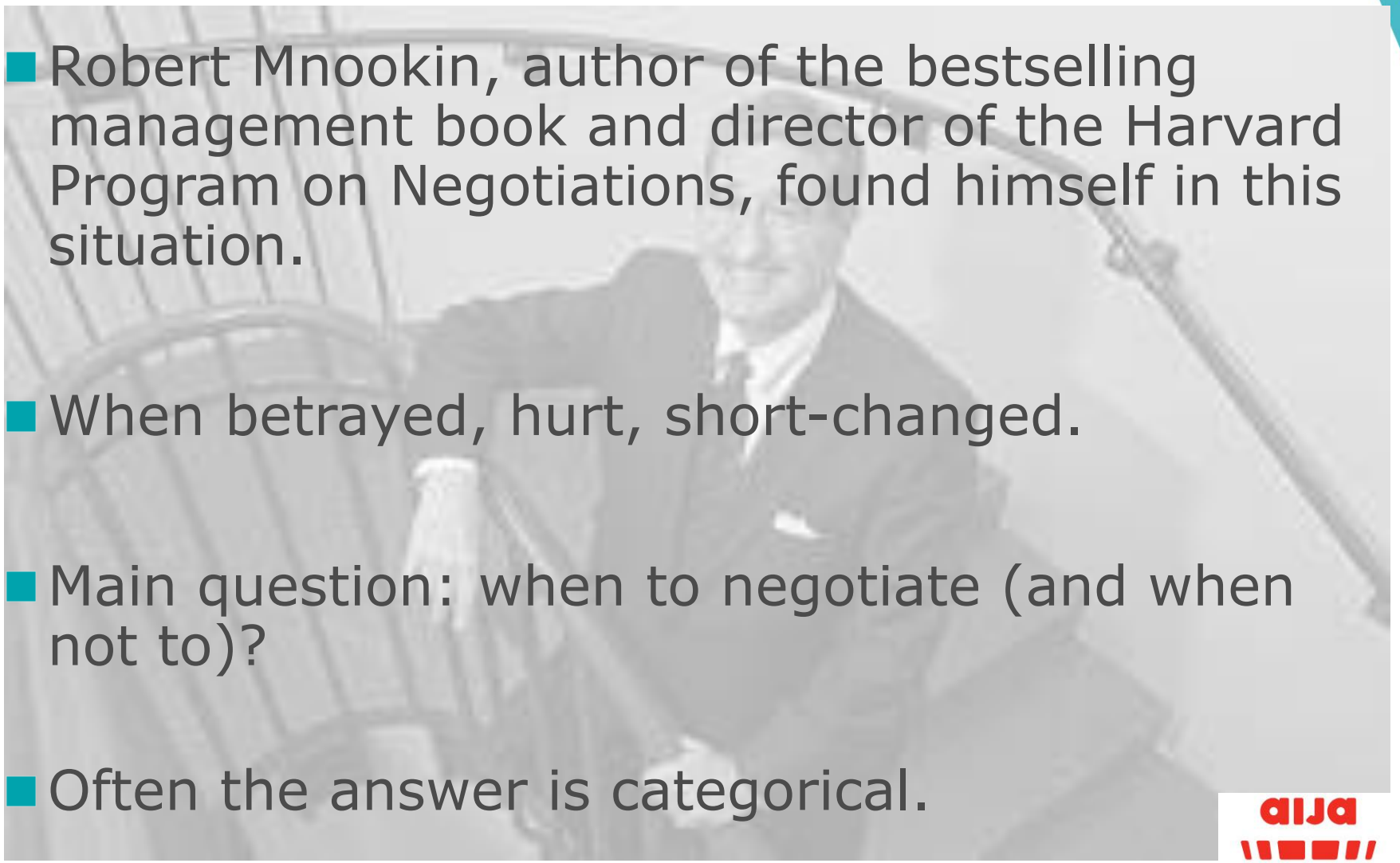
BY PROF KATIA TIELEMAN



IMAGINE THIS…

- President Obama asks for your advice: attack Syria or negotiate with IS?
- What would be your recommendation?

NEGOTIATION: ALWAYS THE BEST SOLUTION?



- Robert Mnookin, author of the bestselling management book and director of the Harvard Program on Negotiations, found himself in this situation.
- When betrayed, hurt, short-changed.
- Main question: when to negotiate (and when not to)?
- Often the answer is categorical.

PROTAGONISTS

- ALWAYS willing to negotiate.
- ALWAYS try to find a solution by a problem solving approach based on the interest of the negotiation party for justice or violence.
- You have nothing to lose.
- Negotiating doesn't mean you give up everything that is important to you - it does mean you are willing to meet your counter party and discuss a deal that is better than your alternatives.

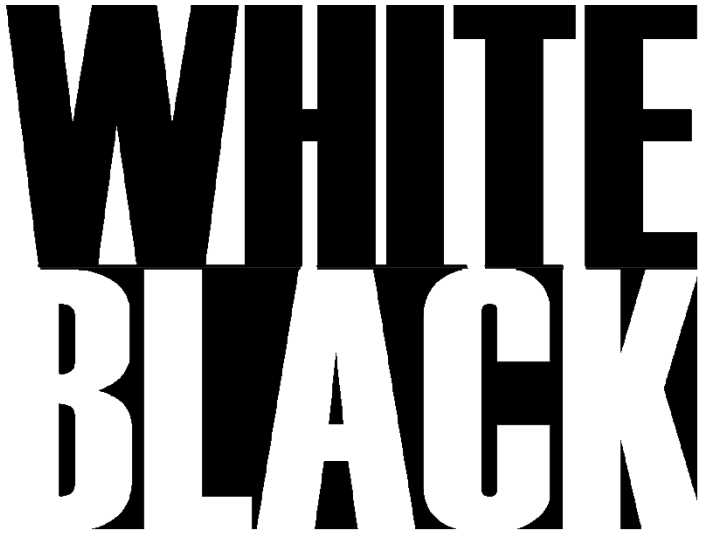
OPPONENTS

- NEVER negotiate with the devil.
- You sell your soul (Faust).
- The devil is smart and scrupulous – he tempts you with something you desperately want and while you give up your integrity he has you fooled.
- „I have been charged by the president to make sure that none of the tyrannies of the world are negotiated with. We do not negotiate with evil: we defeat it"
  Former vice president Dick Cheney

BEYOND BLACK-AND-WHITE SOLUTIONS

- Protagonists and opponents both are right, depending on the example you choose.

- Your two biggest heroes of the 20th century?



CHURCHILL

- May 1940.
- Dark days for the UK.
- France is about to capitulate.
- The US is not yet involved.
- Mussolini offers to mediate between UK and Nazi-Germany.
- 5 days of internal meetings and discussions.
- Churchill decided not to negotiate with – the devil – Hitler.

NELSON MANDELA

- 20 years of prison.
- ANC against negotiating.
- ‘Secretive’ negotiations with the apartheid regime.

- “I decided it was time to initiate negotiations and I did so without asking because I knew what the answer would be.“

WHO IS RIGHT?

- Both decisions are perfectly defendable and make sense looking back in hindsight.
- How to make wise decisions if there is no categorical answer?
- A wise decision making process addresses 3 challenges:
  - A correct cost-benefit analysis.
  - Avoidance of psychological and emotional pitfalls.
  - Takes into account both ethical and pragmatic arguments.

THE COST BENEFIT ANALYSIS: MR SPOCK'S 5 QUESTIONS

- What are the stakes?
- What are the alternatives to negotiating?
- Are the possible solutions that meet the stakes of the parties involved that are better than the alternatives?
- What is the chance that the agreement will be implemented?
- What is the costs of negotiating?
- Is your best alternative legitimate and morally defendable?

THE EXAMPLE OF AFGHANISTAN: NEGOTIATE OR FIGHT? MNOOKIN'S ANALYSIS

- What are the stakes?
  - For the US: protect American civilians, avoid future terroristic attacks .
  - For the Taliban: remaining power, enforce the Islam law.
- What are the alternatives to negotiating?
  - For the US: a military intervention or isolation.
  - For the Taliban: guerrilla.
- Are the possible solutions that meet the stakes of the parties involved better than the alternatives?
  - The Clinton administration attempted to negotiate a shut down of the training camps and extradition of Bin Laden. The Taliban wasn't able or willing to live up to this deal.

THE EXAMPLE OF AFGHANISTAN: NEGOTIATE OR FIGHT?
MNOOKIN'S ANALYSIS

- What is the chance that the agreement will be implemented?
  - Small chance.
- What is the costs of negotiating?
  - Mnookin argues a high cost – the Taliban wasn't an innocent partner; they tolerated and even supported Islam terrorists. The Clinton administration publicly warned the Taliban that they would be held responsible for terrorist attacks. The credibility of the US was at stake. Negotiating could be at high cost.
- Is your best alternative legitimate and morally defendable?
  - According to Mnookin it was. Bin Laden declared war to the US justifying a military response.

→ MNOOKIN advises not to negotiate.

BUT IT'S NOT ALWAYS EASY TO APPLY THIS FRAMEWORK: SOME EXAMPLES CLOSER TO HOME

- You are CEO of a high-tech company. You have a joint venture of 5 years with a Japanese firm that produces and distributes medical tools on the Japanese and Asian market.
- China isn't part of the agreement and your partner isn't allowed to sell competing products there.
- You find out your partner surreptitiously sells a very comparable product in China, cheating under the licence agreement.
- When confronting your partner you get a laconic reaction without any remorse. Your partner sees no problem in stealing your know how. He even denies he breaches the agreement and argues you don't understand the Chinese market. The royalties you ask are according to him not in agreement with the market and he requests to renegotiate.

NATURAL RESPONSE

- You are shocked and feel deceived.
- Your instinct tells you to fight – to sue your partner.

- But, is that the best decision – financially, rationally and morally?
- Are you dealing with the devil?
- Who is the devil?

AUCTION!

- I am going to auction this 20 euro bill.
- Feel free to participate!
- You can bid in multiples of 1 euro until no further bidding occurs.
- The highest bidder will pay the amount she/he bids and win the 20 euro.
- The second highest bidder must also pay the amount she/he bids, although she/he will obviously not win the 20 euro.
- Example:
  - Anna bids 3 euro (second highest bidder).
  - Peter bids 4 euro (highest bidder).
  - Peter gets 16 euro from me (20 minus 4).
  - Anna pays me 3 euro.

AUCTION DEBRIEF

- What happened?

INTERNATIONAL ASSOCIATION
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AUCTION DEBRIEF

- What happened?

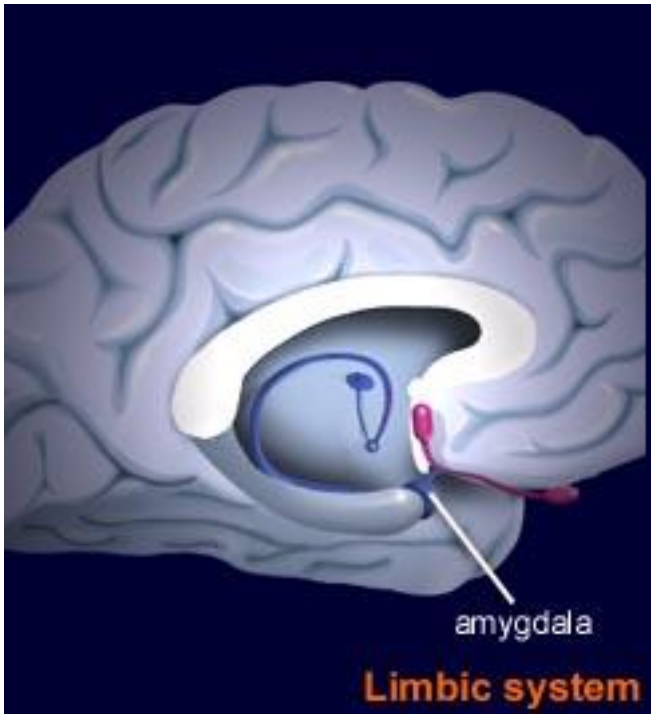
- Trapped in the game, carried away by it.
- Competition and face-saving: who blinks first.
- Winning/competition becomes the goal (rather than making money) – emotions come into the game.
- Perceptions play tricks on us.

WHO IS THE DEVIL?

Our dual decision making system:

- Analytical reasoning:
  - Conscious, systematic, logic - rational
- Intuitive reasoning:
  - Automatic, self-granted, instinctive – trigger based
  - Survive

INSTINCTIVE REACTIONS



- **Amygdala** - An almond-shaped cluster of small structures near the limbic region. The amygdala plays a key role in regulating emotions like anger, fear, love, and sadness.
- An archaic part of the brain, bypasses intellect.
- Emotional hijack.
- Fight or flight (survival).

NEGATIVE PITFALLS– PRO FIGHTING

- Tribalism:
  - Group think – they versus us thinking.
- Demonising:
  - The other party not only acts evil – they are evil.
- Dehumanisation:
  - The other party is worth less, they are no longer human (= racism).
- Moralism:
  - Convinced of oneself, ones one right.
- Zero Sum assumption:
  - All the actions of the other party are per definition evil, what they win – we loose.
- Call to fight:
  - Missionary leader.

POSITIVE PITFALLS – PRO NEGOTIATING

- Universalism:
  - All are equal.
- Contextual rationalising:
  - All behaviour can be explained, understood and forgiven by external factors.
- Rehabilitation:
  - Everyone can change and deserves a second chance.
  - Shared responsibility and blame.
  - All are equally to blame.
- Win-win:
  - The pie can always be enlarged.
- Conciliation:
  - A negotiated agreement is always preferred.
- Call for peace:
  - The leader makes a call to avoid conflict.

BEYOND THE PITFALLS

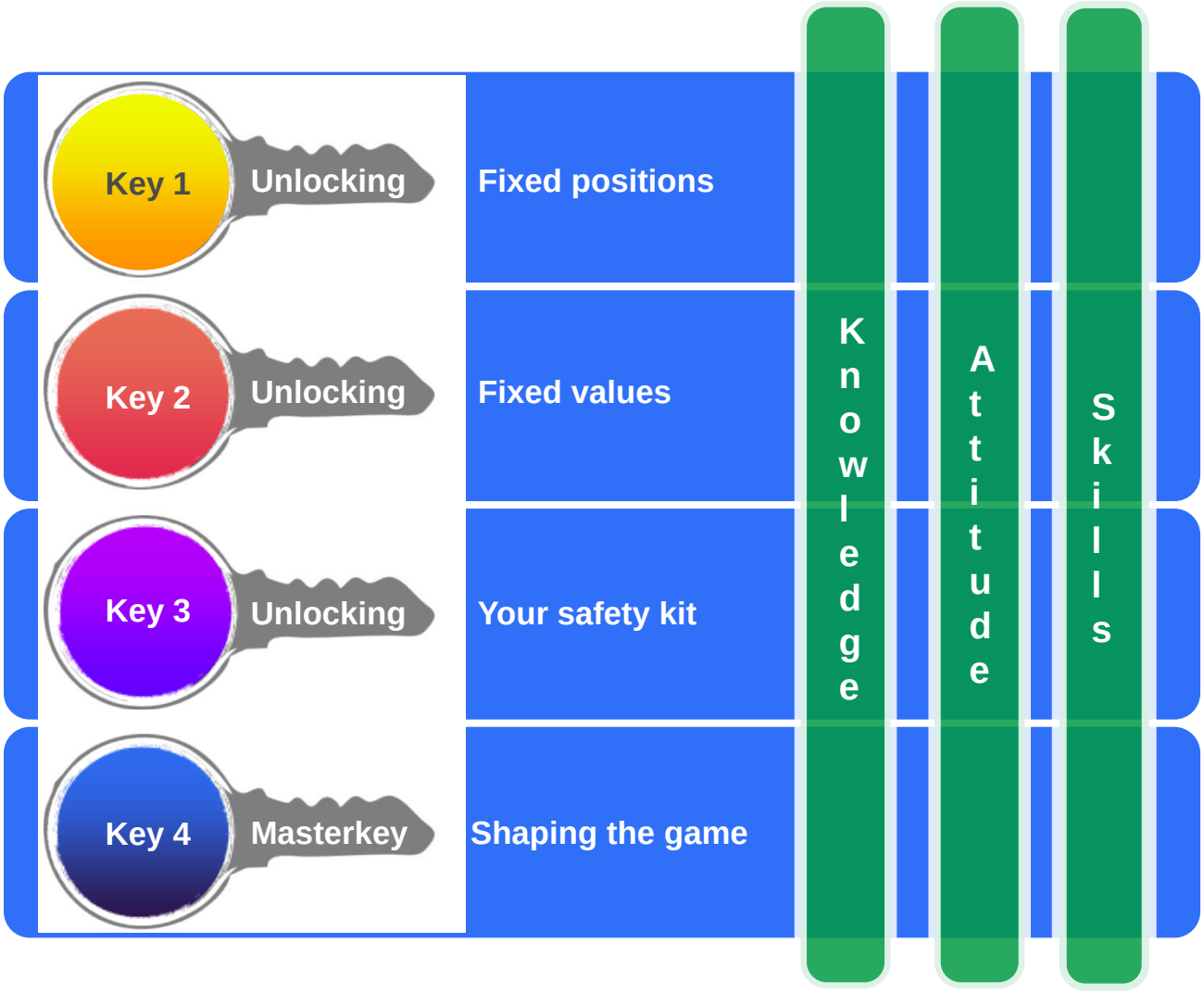
- All these pitfalls cloud our judgement on our negotiation partners.
- Most of us have a preference.
- That preference links to our personality and roots in our deepest identity and model of the world.
  - A warrior in an unjust world in which people explore each other when given the chance.
  - There is good in every human being – we have to look for it.
- We have to go beyond these pitfalls to come to a solid judgement and healthy analysis.

ARE YOU A WARRIOR OR THE PEACEMAKER

ON THE JOINT VENTURE

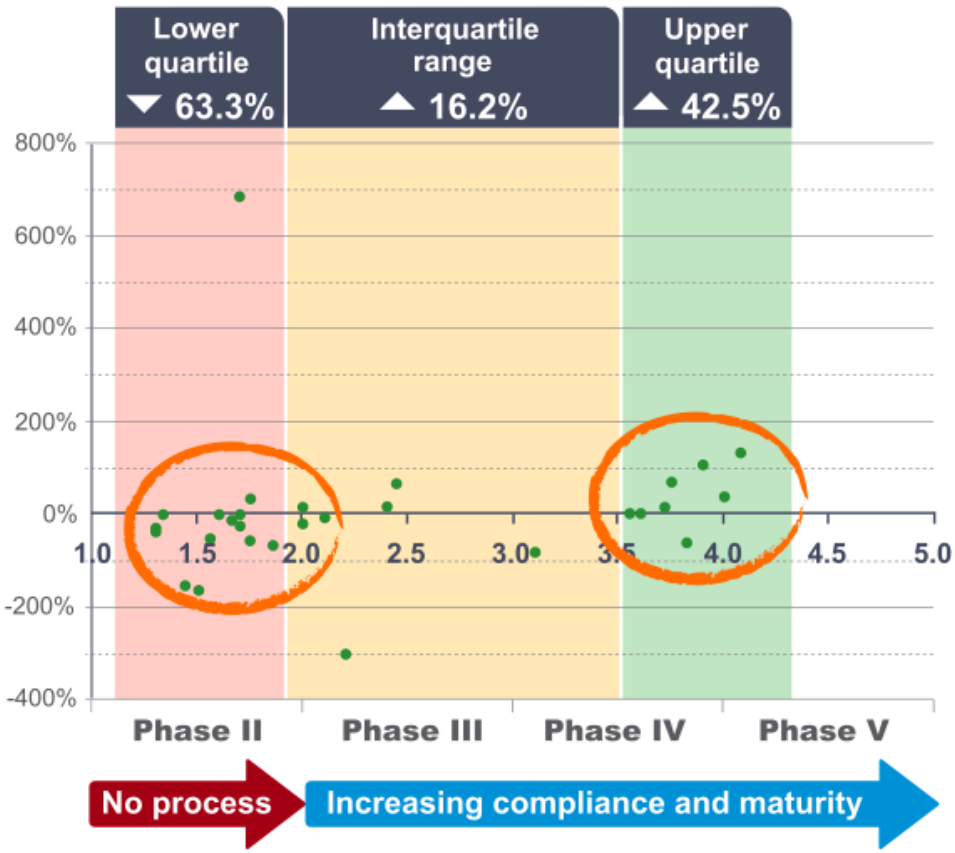
- Stakes and possible outcomes: there is common ground.
- Alternative: a lawsuit.
  - Impossible in China,
  - High risk in Japan,
  - Unlikely in California since the company has no operations there.

THE CONCEPT OF NQ® (NEGOTIATION INTELLIGENCE)

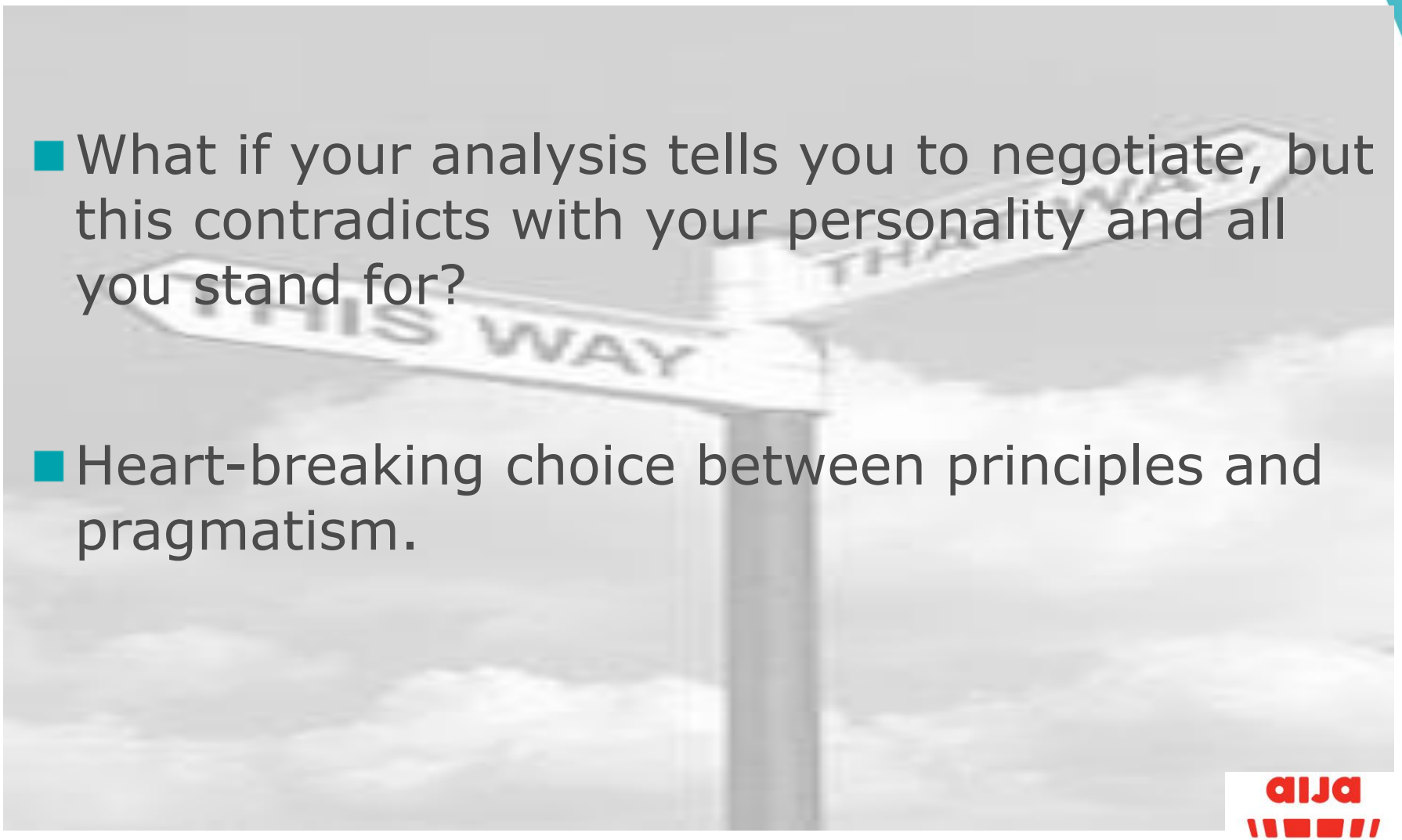


THE TOP AND THE BOTTOM LINE IMPACT OF OUR NEGOTIATIONS

- When the net income of the Global 2000 declined through the recent economic crisis by 30.9%, the net income of companies with mature negotiating tools in place increased 42.5%.
- Companies with no negotiation process suffered an average net income decline of 63.3%.



THE CLASH BETWEEN PRAGMATISM AND IDENTITY



- What if your analysis tells you to negotiate, but this contradicts with your personality and all you stand for?
- Heart-breaking choice between principles and pragmatism.

SHARANSKY VERSUS KGB

- Natan Sharansky, A Jewish Russian dissident was confronted with this dilemma.
- Charged with treason, he was accused of passing state secrets to the CIA, but the charges were bogus.
- His real offence was that he had become spokesman for het Soviet Zionist movement. In exchange for a confession and a condemnation of the Zionist movement, he was allowed to join his wife in Israel after only a short prison sentence.
- Nine long years, Sharansky refused to make any deal with "the devil" despite interrogations and labour camps.
- „A feeling that as long as you continue to say no, you are a free person."

RUDOLF KASZTNER

- Jewish leader in Nazi-occupied Hungary during WWII.
- He chose to negotiate with Adolf Eichmann (SS colonel charged with "Final Solution" for 700.000 Jews) to save Jewish lives.
- After long and incredibly difficult negotiations, he "bought" 19478 human lives from the Nazis.
- He even returns to war territory to negotiate a second deal at the end of WOII.
- In Israel after the war het is condemned for collaboration– did he sell his soul to the devil – or not?
- The judgement is recalled, but he was killed by an extremist.

A WISE BUT PAINFUL CHOICE?

- Neurologist get more and more insight into how moral judgements are formed.
- Often links back to intuitive processes (short cuts) – we have an instant judgement when we see something happening .
- Short cuts are the biggest enemy of negotiations and conflict.
  - Kill creativity and divergent thinking.
  - Lead to assumptions and self fulfilling prophecies.
- **Intuition out?**
  - Important source of information.
  - Test your intuition with analysis to avoid it becoming a pitfall.
- **If a contrast remains, you need to make a painful choice.**

STRONG ADVICE FOR PRAGMATISM: A PAINFUL CHOICE

- Painful, because injustice demands more than utilitarism–injustice screams revenge.
- But pragmatism because it is about a choice between settling the past or preparing the future.
- To prepare the future you often have to give “the devil” something you do not think he deserves – sacrifice at the alter of pragmatism can be a bitter pill.

IN CONCLUSION:

- Should you always negotiate? – No – but more often than you like.

- Keep a strong preference in favour of negotiation in order to defend yourself against the traps and gain a chance to use negotiation intelligence. The burden of proof against negotiation is with that part of you or those around you that do not want to negotiate, but want to fight.

GOOD LUCK UNMASKING THE DEVIL!