

Re-Negotiating Employee Contracts: Issues of Content, Context and Process

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Abstract: This paper is approached from a practical perspective with references given in relevant parts. The objective of this paper is to examine how unfavourable employee contracts in particular and other business contracts in general are renegotiated. The approach adopted here in the paper is both theoretical and practical because of the nature of the topic which is based on a short case study that requires a practical and common sense approach as well as providing an opportunity for probing and plumbing the depths of its theoretical underpinnings. The authors reflected on the theories linked to the topic of negotiation in order to provide deeper insights. Therefore this paper is a review paper that did not require the methodology of collecting primary data from field research. The methodology adopted was part narrative, and part analytical reflection of both praxis and theory pertaining to human resource practices. Therefore the Literature Review part was extended to cover wider field. The paper shares knowledge on re-negotiating employee contracts from the management rather than the legal point of view. The second objective of this paper is to share knowledge and excite readers for them to react by reflecting on their own experiences. The findings of this paper are to be gleaned from the numerous discussions, reviews, examples, and analysis provided from a multidisciplinary point of departure. The paper findings revealed that despite legal contracts being signed as non-negotiable legal instruments, practical imperatives of changing business fortunes and circumstances call for revisiting contracts in order to address any extenuating circumstances. The paper concluded that contracts are not cast in iron or stone and those employees and their representatives can go back to the negotiating table with their employers to re-engage over conditions of service to their mutual benefit in a win-win situation.

Keywords: Bargaining, Contract of Employment, Insider Trading, Labor Laws, Performance-Related Pay, Performance Appraisal, Re-Negotiated Pay, Psychological Contract, Renegotiation, Negotiation

1. Introduction

This article will be useful to both academicians and practitioners in the fields of HRM, Negotiations, Conflict Resolution, Trade Union Studies, Public Relations, Public Administration, and Business Management.

This article evolved from an assignment that the authors did for their MBA programme. It is based on a mini-case study whereby the student was required to examine how conditions of service of existing employees could be re-negotiated.

A simulation study using computers and Artificial Intelligence (AI) concluded that when two entities come into

contact with each other, there is bound to be either cooperation if their interests are congruent or there will be conflict and need for negotiation if their interests collide [64].

For purposes of analysis in this paper, the employee who recently got promoted in the case study is called Alfred. His friend is Lloyd and they both work for the same company in different capacities. These two had been buddies for a long time. However, they had different temperaments, passions, professional skills, talent, and ambitions. Their company recently organized a workshop on the theme, *Managing Diversity and Multiculturalism: The case of individual differences* [39, 50]. Alfred is an avid reader and had read about the character traits of Sanguine, Melancholic, Phlegmatic, and

Choleric characters and he concluded that for himself, he was a Sanguine personality with some traces of being Phlegmatic while he diagnosed his friend Lloyd to be a Choleric with traces of Melancholic temperament [30, 39, 41]

Alfred obviously felt elated and was beside himself with joy for the good fortune of earning a promotion [3, 4, 52]. However, professionally, he could not abuse his office by letting his good fortune rub off on his friend, Lloyd, who seems not to be ambitious or a risk-taker. There is nothing that Alfred could do to improve the lot of Lloyd job-wise, as Lloyd had to fight for himself by taking the bull by the horns and propelling himself to the higher ranks by dint of hard work and excelling at his job. Their company believes in performance-related pay based on job appraisal or performance management assessment results [4, 48]. Alfred

worked in the Human Resource Department while his friend Lloyd was in the IT Department as Database Administrator, a position he has held for the last decade. On earning his promotion as Chief Human Resource Officer from the previous rank of Personnel Officer, Alfred's immediate boss, the Director for Human Resource, gave him his first baptism of fire by assigning him an unenviable and herculean task of re-negotiating the contracts of employment of all the 350 staff at Halcyon Software Solutions Company Limited (HSSC, Alfred and Lloyd's Company) which was based in Doha, Qatar [16, 55, 58]. On assuming his new post, Alfred called for the hardcopy files of all employees for his close study and perusal so that he could classify them into over-achievers, average workers, and under-achievers based on previous appraisal reports and recommendations [31, 45].

Table 1. Some Difficult Negotiations in History.

Negotiation	Date
Camp David Accord- Arab-Israeli Settlement	1983
Bretton Woods Agreement on New Financial Model Post-World War 2	1944 at Dumbarton Oaks, New Hampshire, USA
Oil Glut and OPEC Oil Cut Negotiations	2020, 1967, 1973
Iran Nuclear Deal	2015
Strategic Arms Limitation Treaty (SALT 1, SALT 2, SALT 3) Soviet Union/Russia-USA	1985, 1987
Paris Climate Change Agreement	2019, 2020
Oslo Accord on Palestine-Israeli Settlement	1974
Treaty of Versailles	1919
Treaty of Westphalia	1648

Source: Wikipedia/Encyclopaedia Britannica.

When Alfred learnt from his boss that he was to undertake the herculean and unenviable task of re-negotiating contracts of all the 350 employees in his Company, he lunged himself into the company library to carry out intensive research. At home, he used his leisure time in occasional spells of rummaging through the internet to ferret for information on how to tackle difficult negotiations [69, 70]. Having been a student of International Relations, Conflict Resolution, and Public Administration, he drew a table similar to Table 1 above and read about some of the toughest negotiations in history such as the SALT and START Talks during the Cold War era, post-World War 2. He also read about the Bretton Woods Agreement of 1944 as well as the negotiation of the Treaty of Versailles in 1919 on war reparation claims against Germany. Alfred knew what was in store for him so he was leaving no stone unturned in his preparations [85].

HSSC, Alfred's Company, had recently acquired customized and bespoke HRM software which assisted them to automate most HR issues such as Appraisals, Leave Claims and Applications, Personal Data Upgrades, among others [17, 31, 32, 74]. However, when it came to job contracts, there was need to deal with original and authentic hardcopies which had been signed by both employees and representatives of management in order to avoid any shade or shred of doubt [26, 80, 90, 91]. HSSC was used to conducting 360 degrees appraisals by using a combination of methods such as peer appraisal, self-appraisal, external customer appraisal, supervisor appraisal, and subordinate appraisal in order to ensure transparency and also build trust

in the system [19, 22, 89, 93]. The 360 degrees appraisal is a combination of all the different types of appraisal [60].



Figure 1. The Psychological Contract.

Source: <https://www.businessballs.com/building-relationships/the-psychological-contract/>.

Most often, after employees had signed their contracts and had assumed duties, they sometimes would find to their consternation and surprise that what they had been promised in their employment contracts was not commensurate with the amount of work they have to put in, and the working conditions they had expected was not at par with their expectations or what was on the ground, leading to an expectation gap, a feeling of disgust, disenchantment, and self-guilt of having been given a raw deal. Edgar Schein and others termed this a psychological contract effect [61, 72, 80]. Details of the psychological contract and its dynamics are captured in Figure 1 above. Thomas Killman's model of conflict states that when conflict arises and there is need for settlement, the approaches adopted could be those of Competition, Avoiding, Compromise, Accommodation, Capitulation, and Collaboration. These approaches will determine the tone, duration, and tempo of negotiations. However, negotiators are advised to reduce uncertainties by having strategies and showing good behavior as well as avoiding finger-pointing during the process of negotiation [95].

Figure 1 above is a diagrammatic representation of the issues involved in a psychological contract which can be summarized as employer rewards not matching employees' inputs and expectations [19, 20, 55, 56, 72]. Such situations obviously would call for contract re-negotiations within the first month of engagement if the employee was aware of his rights and was knowledgeable and proactive enough to engage with his employer on the issue.

If the expectation gap is not addressed quickly through a contract review or re-negotiation, it can lead to job dissatisfaction, high labor turnover, low productivity, industrial disharmony, and lack of trust and loyalty of many a hardworking and qualified worker [5, 11, 15, 53]. Employers have both extra-mural and intra-mural duties to perform as they owe many obligations to their workers according to contracts signed (intra-mural) and statutory obligations (extra-mural) or collective bargaining agreements with unions [31, 51, 62].

2. Methodology

The approach adopted here in the paper is both theoretical and practical because of the nature of the topic which is based on a short case study that requires a practical and common sense approach as well as providing an opportunity for probing and plumbing the depths of its theoretical underpinnings. The authors reflected on the theories linked to the topic of negotiation in order to provide deeper insights. Therefore this paper is a review paper that did not require the methodology of collecting primary data from field research. The methodology adopted was part narrative, and part analytical. Therefore the Literature Review part was extended to cover wider field. The methodology is based on secondary data from journal articles, blogs, books, and other sources. Both the deductive

and inductive approaches were used in the analysis and discussion [82].

3. Literature Review

On his appointment, Alfred had been inducted into his new position and given a brief about his new job with regard to tasks to perform, responsibilities and accountabilities, work targets and expectations, and finally how to conduct himself on issues with staff who were junior to him, as he had now joined the top echelon of management [3]. Also, by consulting with his boss and senior colleagues, he had gotten a fair idea of his new job role and expectations.

His newly-elevated role had been marked by additional trappings of fringe benefits including a paid-for annual leave to any destination of his choice with his family, a luxurious company limousine which was chauffeur-driven, plus other perks such as club membership of the exclusive hotels and high society clubs in Doha and other parts of the world [9, 11, 20].

Alfred definitely earned his spurs from his loyalty and competence in his previous role as he had put in a lot of work and showed a lot of personal initiative and creativity. He therefore needed to learn fast and settle down quickly into his new role. He needed to declare conflict of interest with regard to re-negotiating the contract of his friend, Lloyd [13, 21, 25]. If he chose to re-negotiate the job contract for his friend, he would obviously be carried away by emotions and be blinded by the friendship so much so that he would not nor could not be objective or neutral in his assessment as there would be allegations by observers of insider-trading [6, 17].

Before re-negotiating contracts for salary raises for employees, there should be wide intra- and inter-departmental consultations especially, with the Chief Finance Officer (CFO) to determine the ability of the employer to pay, with union representatives, and with other stakeholders such as the Labor Commission officials from the government. Wages or salaries should be researched to find out what similar positions on the market are attracting in terms of remuneration or perquisites (perks) or conditions of service to avoid wide wage gaps or differentials [68, 71, 75, 81, 84]. This is known as wage relativities or best practice. That will require Alfred to carry out a market research on the issue to know what was prevailing in the industry. Alfred had also the duty of assessing the new positions which had been created by using criteria such as job relevance in the organization structure, job worth or value addition to the mission statement and strategy of the organization, job status in the hierarchy and the reporting lines in the hierarchy to be clearly and precisely established to avoid duplication and confusion. The higher the job position in the hierarchy the greater the perks and privileges attached to it to reflect seniority [59, 75].

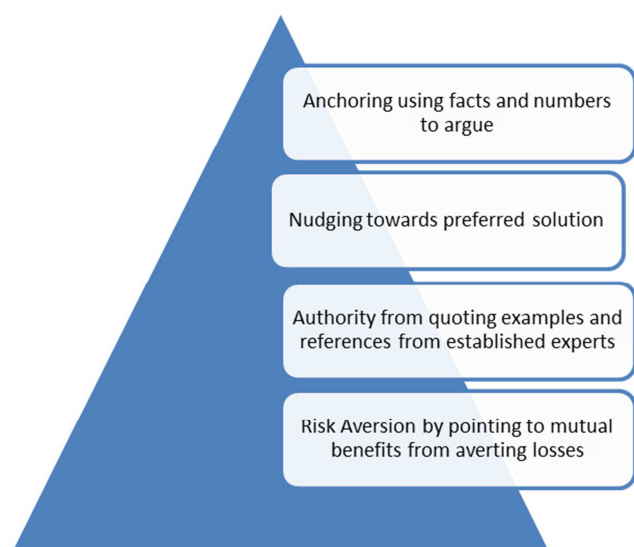


Figure 2. Types of Actions during Negotiations.

It was expected that during the tripartite Collective Bargaining sessions with all stakeholders, the players would come properly prepared, having done due diligence and their homework with availability of evidence of hard facts and cogent arguments to back their demands for variation upwards in their rewards. Such demands should be based on productivity improvements and levels of profitability per

employee as against unit costs [73, 84, 90, 95, 96]. Figure 2 above shows the types of tactics employees are supposed to use during negotiations and re-negotiations including anchoring demands on factual evidence and statistics, nudging opponents towards preferred positions, using expert information to make arguments, and putting up risk aversion behavior by pointing to losses to both parties should certain actions not be taken [32, 38, 90]. Before top positions are filled in an organization, the appointing officer will need clearance from the Board of Directors and the Chief Financial Officer (CFO) to ascertain whether the cost of the position had been captured in the budget. Alfred had to find out whether there had been changes to the existing Labor Laws by contacting the Labor Office or consulting Labor lawyers or checking it out online [26, 27, 98]. Wages tend to be sticky downwards as it is unhealthy to put workers on lower salaries from previously high wages [31, 94]. Wages should be aligned with performance and results obtained from appraisal records [37]. This is known as performance-related pay. Where unionized workers are found in an organization, the determination of the salary structure for lower level staff depends partially on their annual collective bargaining sessions and partially on the outcomes of job appraisals and performance management results as well as on the minimum wage policy which is set by the government [31, 43].

Table 2. Issues for Renegotiation.

ISSUES TO RENEGOTIATE	REMARKS
Licenses	Abuse of Licensor's Rights, Flexibility for Licensee's Obligations
Payments to Suppliers	Payment Delays, Cash Flow Problems, Need for Integration in Supply Chain
Obligations and Responsibilities	Explicit and Implicit Interpretations, Extra-Mural and Intra-Mural Responsibilities
Employment Contracts/Conditions of Service	Psychological Contract Issues of Perception, Extenuating Circumstances from PESTEL Factors
Performance Contracts and Research Collaborations MOUs	Social Charters, Allocation of Duties, Sharing of Credit for Results
Enforcement of Rights	Extension of Property Rights, Oversight, Gatekeeping Issues
Manufacturing and Supply	Outsourcing Delays, Conflict of Interest, Conflict of Culture, Quality issues
Installation of Facilities	Project Failure or Project Overruns/Non-Delivery/Poor Finishing
Project Execution	Issues of Project Creep, Project Cost, Scope, Quality, Duration, Collateral Damage and Compensation
Governance Issues	Issues of Neglect, Lack of Oversight
Warranties	Non-Performance of products could call for replacements, reworks and refunds
Termination of Contracts and Extension/Renewal Issues	Extenuating Circumstances such as COVID-19 could call for Extensions and Renewals
Registered Rights and Patents	Copyrights, Drawings and Paintings, Designs, Creative Works of Art
Renegotiation of terms in Memorandum of Understanding (MOU) for Joint Collaborations in Research, Consultancy, and Training of Personnel	Most Tertiary institutions and Universities enter into collaborations to gain synergies by sharing costs and complementing research expertise

Source: Adapted from Stolz (n. d.).

Table 2 above captures some of the issues and areas of contracts that often come up for renegotiation such as contracts for outsourcing deliveries, contracts which deal with installation of facilities, and manufacturing contracts, among others [90]. It is impossible to list all the areas that come up for contract renegotiation. The above list in Table 2 suffices as these are the frequently encountered areas of friction in firms and organizations.

Harvard Law School Program on Negotiation (PON) reported on a bad deal which had to be renegotiated [14, 38]. It was when a Chicago Mayor who was about to leave office

in 2008 negotiated to lease the city parking lots to a private company for the sum of 1.2 billion dollars for a period of 75 years during which time the Company would gross 11.6 billion dollars [38]. The Mayor had done that to raise 500 million dollars to cover the City Council Budget Deficit. After the contract had been signed and implemented, Chicago taxi drivers experienced extremely high charges from the private company, and they demonstrated [38].

The new Mayor who assumed office in 2011 had no option but to call for a renegotiation of the contract. This shows that no contract is cast in stone or iron. It is observed that contracts

done in good times may need to be renegotiated in bad times like this time of COVID-19 virus pandemic which has caused a hemorrhage of profits and caused humongous economic losses [85]. It is recommended that contracts should provide sweeteners and incentives to lure parties to deal and if still there is no deal, parties have to walk away with their Best-Alternative-To –A Negotiated –Settlement (BATNA) in place intact [85]. SSON.network advises negotiators to observe body language, avoid taking positions and posturing during negotiations [90, 73]. This means that negotiators should assume professionalism stance during negotiations by controlling their emotions and letting reason prevail.

The issue of negotiation and renegotiation has its origins and strong base in Applied Mathematics and Economics. In Mathematics, the works of Oscar Morgenstern and John Van Neumann which started in 1944 refers to their published work in the late 40s and in the 50s such as *Expected Utility Theory based on Rationality and Logical Rules and Theory of Games and Economic Behavior* (1947). Game Theory started long ago in Statistics when the Italian, Bernoulli and Swiss, Gauss came up with their experimental Binomial trials and *a priori* assumptions about probabilistic outcomes. Game Theory mimics real life situations and scenarios as they help to understand complex behavior of negotiators and help predict possible outcomes based on rational expectations, and rational assumptions.

Dahlback's Analyzing Rational Crime Models and Methods (2003) is also informative and instructive on assumptions underlying behavior of negotiators at the negotiating table. Dahlback's work complements earlier work done concerning the Prisoner's Dilemma by Albert Tucker (1950) and later in 1994 the empirical work of the Nobel Laureate trio of John Nash, John Harsanyi, and Reinhard Selton [66]. All these models revolved around choosing between two worse scenarios and showing the essence of real ethical dilemmas faced by negotiators at the negotiating table especially, where competitors are in oligopolistic markets with many market uncertainties and information asymmetry [2, 66].

Market players may seek outcomes at negotiations either to cut price down or to whittle down output to stem a surfeit or glut. This is common with Oil-producing cartels such as OPEC (Organization of Oil Producing Countries) which often enter into quota fixing arrangements with members in order to cut back on supplies in order to cause price to go up. Some members with dire economic needs may not take kindly to such artificial arrangements and may engage in secret outputs and sales on the black market. Market negotiation outcomes can either lead to collusive behaviour or market collapse and domination by the most powerful player that survives the price-war [2, 66]. This scenario mimics a jungle war of survival of the fittest or winner-takes-all approach (cf. Hobbesian state of anarchy and chaos)

In Economics, Williamson's market transaction cost model advocates for companies facing stiff competition to look out for all forms of supply chain integration in order to gain economies of scale and economies of scope or internal and external economies [2, 66]. In modern times, large

multinational conglomerates such as the giant MNCs (Multinational Corporations) look for networking and collaborative opportunities to share costs, technologies, research results and greater opportunities for cooperation through arrangements such as mergers, joint ventures, strategic alliances, franchising, licensing, holding company structures of SBUs (Strategic Business Units as subsidiaries), among others that lead to internalization of externalities, thus reducing costs of outsourcing, offshoring and contracting out [2, 66, 36]. Conducting business with outsiders such as purchasing and ordering can lead to long-drawn out negotiations that are time-consuming and costly. These negotiations require a lot of expertise and excellent strategies from negotiating parties.

Negotiators such as decision and policy makers use many Economic concepts such as that of Pareto Optimality to obtain best state outcomes whereby a choice made by say State or Federal actors should make at least one person better off and none made worse off [2, 66, 100].

Jeremy Bentham and John Stuart-Mills came up with the concept of Utilitarianism in the 19th century by advancing the concept of the greatest good to the greatest number of people (*pro bono publico* or *somum bonum*) as a way of achieving equity and fairness in making decisions during negotiations [87, 100]. The idea of Utilitarianism posits that in a worst case scenario, a few people could be sacrificed as collateral damage to save a large majority of people. This concept comes up a lot in governance and in business whereby sometimes some workers are fired to save enough money to raise salaries of remaining workers [99].

The concept of Utilitarianism is captured and modelled by the MIT Trolley problem. In the Trolley problem model, there is a loose trolley on the rail track that is going towards five senile people and who are tied and placed on the track. There is a bystander who has an option to do something to save them or do nothing and they will be crashed to do. If the bystander does something by pulling a lever, he will save the five senile people as the trolley will divert and go to another track where a teenage girl of exceptional intelligence is lying tied on the tracks [99].

When the authors put this scenario to their students during final examinations, many responded that they would have saved the teenage genius because the old had had their time. We pointed out that applying the principle of Utilitarianism required saving many lives over a single life in line with the maxim greater good for the greater number. However, every dilemma has its own extenuating circumstance and in such matters, we cannot judge wrong or right conduct or choice as everything depends on the situation and logic advanced to support arguments. We also pointed out four students that the elderly could be walking repositories of community lore as their accumulated wisdom and knowledge could even lead to finding a vaccine for COVID-19 pandemic.

Another theorem in Economics which is pertinent to negotiations is Robert Coase Theorem (1960) that recommends extension of property rights. In a case where there is a dispute over property rights, Coase advocates that

irrespective of who the owner of the property is, eventually the one who can make the optimum use of that property and has the capacity to compensate the other party will eventually become the owner of the property in question [2, 66].

To some observers, the Coase Theorem offers a Second Best solution as this solution could face and pose ethical and cultural dilemmas.

Herbert Simon in his epic Economic model of Bounded Rationality and Satisficing Behavior of managers opened the door wide for the inception of modern day Behavioral Economics. Simon stated that in an organization, no one person made all the decisions and that managers do not usually consider all options before making a decision because of time constraint, cost concerns, and limitation of human capacity. Therefore, Simon opined that managers in negotiations tend to rely on Guesstimate, Gut feeling and what works from experience [2, 42, 66]. Other enhanced and scientific methods which have proved efficient in decision making during negotiations include techniques such as playing the role of the Devil's Advocate, Delphi iterative Technique of using experts in blind surveys to offer solutions whereby after several rounds, a common solution is found.

4. Findings and Analysis

Interviews and Assessments

Before having a one-on-one engagement with employees, Alfred should design a questionnaire for an internal survey to capture the mood of employees and to know their expectations [3, 82, 86]. He could choose a convenient or random sample for the exercise [82]. Alfred could use knowledge of Organization Development (OD) for re-positioning and re-inventing the organization for reform and change management. The restructuring exercise can be carried out either partially or holistically [29, 76, 80]. Alfred could call upon Line Managers and Heads of Departments to furnish him with data on vacancies to be filled due to market growth and those to be filled due to natural human resource attrition [83, 88, 89]. Alfred should have a general meeting with all employees and hint them about the renegotiation of conditions of service exercise to be conducted soon in order to prepare their minds in advance to forestall any resistance to change [1, 10, 54]. Also, such fora can be used to allay fears of employees about the new changes to working conditions and to answer questions about doubts that

employees may have. It will require Alfred using the skills from Public Relations and Strategic Communications Management [1].

Table 3. Renegotiation Process.

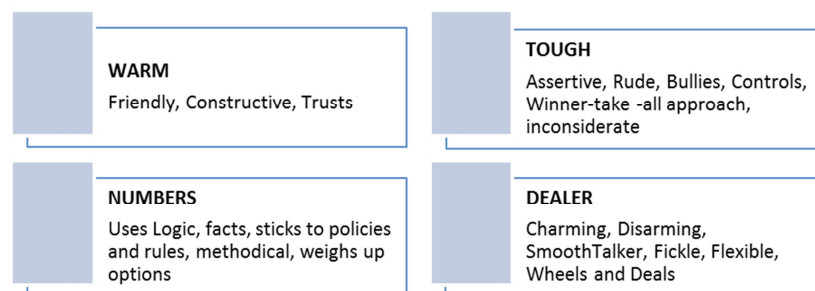
Know yourself and your organisation
Know your product
Know your opponent
Size up opponent at first meeting
Communicate your interests, needs, wants, and issues or concerns
Identify gaps to close
Prioritize issues to know what can be sacrificed and what things are non-negotiable
Address needs and take measures to close gap in give- and- take approach
Close gaps
Close deal

Pre-negotiation preparation is captured in Table 3 above [90]. Alfred has to know himself well as well as being *au-fait* and savvy about the needs of his organization and what they want him to do, as well as have the ability to communicate issues clearly and succinctly during the renegotiation process [1, 9, 51]. Alfred should know what is possible, what is probable, and what cannot be delivered. He will need to take down notes or record some sessions to play back later to listen to.

Negotiations

During the one-on-one negotiations, Alfred may request information from interviewees concerning the following:

- Tenure in the current position
- Production of CVs showing track record
- Photocopies of updated Academic and Professional qualifications
- Proof of membership of professional bodies
- Testimonials from previous employers and colleges attended
- Training undergone, and additional qualifications obtained in the last two years
- Offences committed in the past three years from confidential files
- Special awards, citations and best worker awards received in the last two years
- Acting positions undertaken
- Extra-curricular achievements
- How many times targets were exceeded
- Board Committees served on
- Salary expectations
- Any extraordinary thing done to promote Company image



Source: Authors.

Figure 3. Attitudes adopted during Negotiation.

During negotiations, negotiators may adopt four stances captured in Figure 3 above [90]. Being Warm means being objective, and building trust with great zeal and willingness to make the negotiation succeed. Here, the negotiator is open-minded and is willing to build bridges for future business interactions. Being Tough means the negotiator goes to the negotiating table with a closed mind and one aim of bullying, riding roughshod over adversaries, and being hell-bent on winning at all cost.

This is a win-lose and distributive justice approach to negotiations with short-lived success. This approach is a fixed pie approach [13, 95]. The Warm approach earlier discussed could be used to great effect when selling a product, when negotiating a merger or takeover, or when outsourcing. The Tough approach could be used when the adversary is equally tough and rough, especially negotiating ransom payments for hostages and kidnapped people.

When a negotiator goes to the negotiating table with the Numbers approach or stance, he goes as an expert who knows his onions and who shows wit, logic and expects a systematic and conservative approach to the negotiation approach. This approach could lead to rigidity, frigidity, and inability to warm up to the occasion by breaking or thawing the ice with light banter or humor [90].

The Numbers approach would work well in negotiations in diplomatic circles as well as in governmental circles when locked up in collective bargaining with union leaders or when there is a tussle between a foreign Multinational Corporation and a host government with regard to payment of taxes, royalties, retrenchment of workers, and dealing with issues of pollution [90].

The Dealer-Wheeler approach to negotiations requires a smooth talker who is charming with suave and disarming manners. This approach could be used in a typical case of ransom payments in order to free hostages, in arms limitations talks, and in dire situations involving life and death such as during the Entebbe Raid (1976) where the Palestinian Terrorist group hijacked some Israelis on a flight, Munich Massacre (1972) where a Palestinian Terrorist Group, Black September, killed Israeli athletes during the 1972 Olympic Games in Munich, West Germany, and the Iranian-Hostage Crisis (1979-1981) where 52 American Diplomats and citizens were held hostage for 444 days in Iran, and the recent USA-Taliban Truce Talks (2019-2020 [13, 90, 100]. In such tough negotiations, there is the tendency for the stronger party to wield the big club ready to hammer and force the underdog into a deal while the weaker adversary may use hit-and-run guerrilla tactics against the stronger opponent. Such underhand tactics could send the negotiations into a long tail spin and it becomes a protracted see-saw or Ping-Pong match with no end in sight as to when a deal could or would be reached.

Having HRM software in place, much of the data requirements stated in the bullet points above should be sitting on HSSC HRM database such that the one-one-one interviews by Alfred are meant to confirm most of these data

points. Also the exercise would help Alfred gain intimate knowledge of the employees; at the same time it would help stamp his authority on their minds as the person in charge of their well-being. It would also be a good public relations and strategic communications opportunity, not excluding the point that it would also be a learning curve for Alfred in deepening his knowledge in human behavior and psychology [39]. Alfred would be dealing with employees of different nationalities and cultural backgrounds so he has to bear that in mind on how to deal with issues of multiculturalism [7, 45, 92].

5. Discussion

Approaches to Negotiations

For negotiations to succeed, both parties have to approach it on a level ground without unreasonable assumptions, and they should build trust in each other. They should be prepared for trade-offs or sacrifices, compromises and not confrontations [13, 19, 24, 91]. They should listen carefully so as to avoid mental blockages or blinded awareness [91]. They should perfect the art of reframing and filtering of information received in a selective manner but not excluding important data in what Festinger termed as cognitive dissonance and what others termed as blinded awareness, focus failure and analysis paralysis or bounded rationality [58, 91].

Figure 4 below is based on [90]. Figure 4 shows how information should be managed during a negotiation. In the process of negotiation, the parties have to decide beforehand what information to divulge and what not to divulge, what information to fish out for, and which information to share or trade for more information from the adversary, and which information should be kept closely to the chest and released at an opportune time as a surprise or bombshell to shake up and surprise the opponent.

What information to divulge	What information to seek for
What information not to reveal	What information to release as surprise or Bombshell

Figure 4. Information Management (Modeled after Stolz).

Negotiations should concentrate on issues and not people; they should be objective and harmonious and not competitive or winner-takes-all (zero-sum) [13, 25, 95]. Alfred should neither be emotional nor temperamental in his negotiations with employees which should follow clear policy guidelines. Negotiation of contracts is emotionally-charged and that hard lessons are learnt only by participating in it as it involves both cognitive and affective faculties of those taking part [39, 55].

Negotiators should keep a positive mood and also have a

sense of humor and sportsmanship. He advises negotiators to get professional advice from lawyers. The best approach to negotiations is having an open mind, being fair, and wanting to have a win-win situation which makes all negotiators winners and happy. That is an integrative rather than a distributive justice approach [55, 95].

Parties to a negotiation should treat each other as equal partners and they should maintain mutual respect [21]. further advise that the parties should clarify their stance, boundaries, goals, interests, standards, and expectations in advance so that trust is built for a successful negotiation. The parties should enter into negotiations with a positive 'can do' mind set. The parties should appoint their people to be used as points of contact, draw timelines, provide an agenda accepted and agreed to by all, and establish some form of communication protocol [21].

During the negotiation process, parties are advised that they should learn how to manage their emotions by suppressing them and putting up somehow an expressionless or poker face in order to calm nerves. He advises that dealers should be considerate and empathetic in order to make progress [13]. It is further advised that each party should be alert to issues and developments in order to capitalize on exploiting fleeting opportunities to avoid missed chances to make deals [13].

The contextual factors should be considered as well as the personalities, gender, culture, and skills-set that are involved in the negotiations. Market demand and supply factors should also be considered as some jobs can be rendered redundant by market forces [12]. When employees are bargaining for new conditions of service, they will have to take organizational performance into perspective, especially during global crisis such as COVID-19 pandemic which has rendered many economies and businesses to lock down.

Alfred being a student of International Relations and Public Administration should be familiar with some of the toughest and dicey negotiations in history and in our contemporary era.

Table 4 below provides details of some of the toughest negotiations in our recent past as well as in the distant past. Political negotiations take long periods of time and involve a lot of expenditure and behind-the-scenes maneuvers by

match-makers and intermediaries. In recent time, the Paris Climate Change Accord of 2018 took many sleepless nights to be concluded because of some countries expressing objections to some clauses and use of certain words and phrases. Negotiations require patience, a lot of tact and subtle diplomacy as well as some arm-twisting, cajoling, persuasion, and dangling of some carrot as well as sometimes wielding the big stick by using threats, some bullying, and some bluffing [23, 100].

There is definitely some show of brinkmanship whereby things should sometimes get worse before they get better, the famous J-Curve effect in economics. Sometimes negotiators may threaten to pull out if they do not get certain things done their way. During the Bay of Pigs Crisis of 1961 at the peak of the Cold War involving the USA and former Soviet Union, the then Soviet leader, Nikita Khrushchev, showed a lot of brinkmanship and international statesmanship by pulling out the ballistic missiles installed in Cuba, that were targeted at Florida in the USA. That action was prompted by American ultimatum given to the Soviets. That Missile Crisis of October 1962 was the aftermath of the 1961 Bay of Pigs Invasion Crisis caused by ex-Cuban exiles who invaded Cuba from the USA with the intention of overthrowing the Revolutionary leader, Fidel Castro, who had earlier on in 1959 overthrown the legitimately-elected leader, Fulgencio Batista. American spy planes had spotted Soviet missile installations in Cuba. Nikita Khrushchev, the Soviet leader, and J. F. K. Kennedy, the American President, showed the world how great and seasoned leaders they were. They played by the book where honor was concerned [23, 100].

The two leaders displayed their sterling leadership mettle by their words and deeds. Other tough negotiations in history include the Palestinian-Israeli Camp David Accords and the Bretton Woods Agreement of 1944 at Dumbarton Oaks in New Hampshire in USA which established the US Dollar as international reserve currency for settling multilateral and bilateral debts. The Versailles Treaty of 1919 was also a very difficult negotiation as its settlement did not go down well with defeated Germany, and it triggered the Second World War in 1939. Thus a win-win integrated solution is always to be preferred against a unilateral distributive outcome of a win-lose settlement [23, 100].

Table 4. Some Difficult Negotiations in History.

Negotiation	Date
Camp David Accord- Arab-Israeli Settlement	1979 (Menechem Begin of Israel and Anwar Sadat of Egypt signed Peace Treaty during time of President Jimmy Carter of the USA)
Bretton Woods Agreement on New Financial Model Post-World War 2	1944 (Allied countries signed agreement to have fixed exchange rate between the dollar and their currencies)
Oil Glut and OPEC Oil Cut Negotiations	2020, 1967, 1973
Iran Nuclear Deal	2015 (Between Iran, 5 Permanent UN members and EU)
Strategic Arms Limitation Treaty (SALT I, SALT II, START I, START II)	SALT I 1972, SALT II 1979, START I 1991, START II, 1993
Russia-USA	
Paris Climate Change Agreement	Effectuated November 2016
Oslo Accords on Palestine-Israeli Settlement	1993, 1995, 2001
Treaty of Versailles	1919
Treaty of Westphalia	1648

Source: Compiled by Authors/several internet sources.

Pay negotiations should be based on performance results, nature of the job and its responsibilities, as well as contractual obligations to review conditions periodically. There are collective agreements signed with unionized workers to have salary reviews say every three years depending upon economic indicators such as GDP growth, inflation, and market demand conditions. Wide salary gaps should be addressed by closing up those wide gaps in order to have horizontal and vertical equity so that employees do not become disgruntled.

Attempts should be made to have salary alignments within the organization to avoid wide salary discrepancies or disparities [6, 11, 15]. Alfred should consider all these points when conducting the conditions of service re-negotiation exercise in order to have industrial harmony and stability.

Outcomes and Follow-ups

Those who are not successful in renegotiating for better conditions of service on the basis of poor performance can be given targets to achieve and also training to undergo in order to help them bridge up skills and knowledge gaps. Some can be sent for counseling and others who have excelled can be promoted or given pay rise. Those promoted have to be inducted properly into their new roles. Those who choose to leave should be paid severance pay, usually three months' pay and their terminal benefits such as gratuity should be paid pro-rata, based on length of contract period served [34, 91].

Table 5. Good Attributes of Negotiators.

ATTRIBUTES OF NEGOTIATORS
1. Good listening skills to learn and apply knowledge gained
2. Clear and Consistent Vision
3. Candid on declaring needs and wants
4. Honest about values, limitations, and expectations
5. Good in identifying and analysing Content and Context issues
6. Trustworthy and professional approach to issues
7. Fair, considerate and empathetic with genuine desire to deal
8. Discreet and at same time open-minded and transparent
9. Good sense of humour

Source: Stolz.

Table 5 above lists the attributes of good negotiators which comprise, among other values, good communication skills, good interpersonal skills, and having noble virtues of honesty, integrity, sincerity, candidness, and fairness.

Those who are leaving the organization should be given exit interviews so as to obtain information from them in order to inform policy for future improvements. Exit of staff can either be on a soft landing or on a hard landing. Soft landing means those leaving will be sent off in grand style by giving them golden handshakes and throwing lavish send-off parties for them, while others will be given gifts as souvenirs and memorabilia or mementoes. Besides, they can be empowered with entrepreneurial skills to enable them set up their own businesses when they leave [46, 49, 56, 63]. A hard landing means a very cold and frozen relationship exists and those leaving may leave embittered because they differ with management as negotiations may have reached an impasse, deadlock, and stalemate. Even in that frigid scenario, courtesy

demands that those leaving should be thanked for their services by serving them formal letters as part of mending the fence and good public relations stunt because the world is a small place as our paths keep crossing in the most unlikely places and in a mysterious manner [3, 4, 47]. Table 6 below details the steps involved in the negotiation process. The pre-negotiation preparation should constitute 90% of the effort put into a negotiation which means that negotiators should do thorough homework and due diligence by leaving no stone unturned in order for them to succeed [90]. It is similar to the situation where lawyers have to dig through tons of documents to get to the facts before they go to court.

Table 6. Steps in Negotiation.

PRE-PREPARATION
INITIAL MEETING TO SIZE UP AND DECLARE ISSUES AND INTERESTS
OFFER
COUNTER OFFER
BARGAIN TO NARROW WIDE GAP
PROGRESS/STALEMATE
RECESS FOR CONSULTATIONS
TERMINATION OR PROGRESS
WEIGHING BATNA OPTIONS AND TARGET SET
DECIDING WHAT TO SACRIFICE AND WHAT IS NON-NEGOTIABLE
SEEKING COMMON GROUND TO CLOSE GAP
CONCLUSION AND SEALING DEAL

Figure 5 below lists the actions expected from parties to a negotiation which include listening keenly in order to learn something new and to gain points for arguing on, questioning logically and probing further for clarity, synthesizing points for the benefit of all, expressing feelings on issues to show your interest, emphasizing points of absolute interest, being prepared to give as much as to receive, putting up a spirit of willingness to cooperate in order to find common ground and a settlement of mutual gain, and ensuring gains are shared fairly to all parties involved [90].

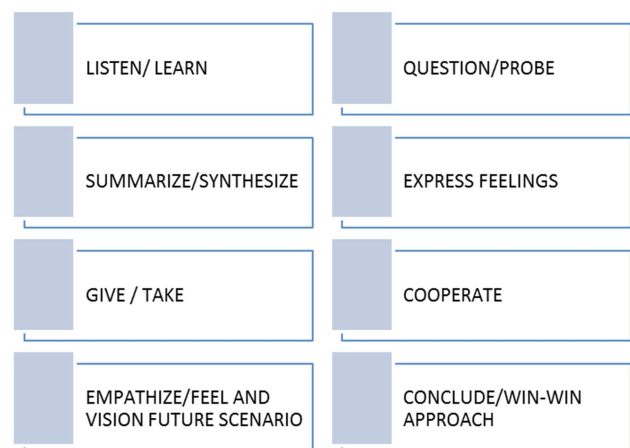


Figure 5. Behavioral Attitudes at Negotiations.

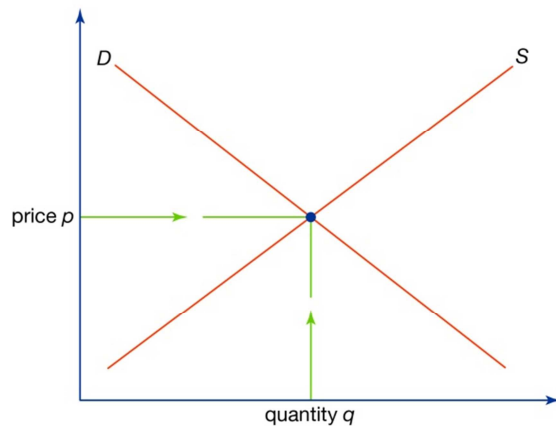
Modeling Negotiations and Renegotiations

Literature is replete with mathematical and economic models for negotiated settlements some of which are too

complex for an article of this nature. A few of these will be discussed alongside what the authors came up with as their own insight and contribution to the discourse

In basic and simplified terms, negotiation can be depicted as the common cross diagram of downward-sloping Demand curve on the one hand and on the other hand the upward-sloping Supply curve which meet at equilibrium point of settlement when the market is cleared and there is neither surplus nor deficit. This is illustrated in Figure 7 below [2, 66].

Supply and demand



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Figure 6. Showing demand and supply curves at equilibrium.

DIAGRAM FIGURE 6

Figure 6. Demand and Supply Curves showing Equilibrium

This diagram depicts what is involved in algebra as solving for two linear simultaneous equations of the form

$$Q_D = a_1 - pq \text{ (Demand equation)}$$

And supply is of the form

$$Q_S = a_2 + pq \text{ (Supply equation)}$$

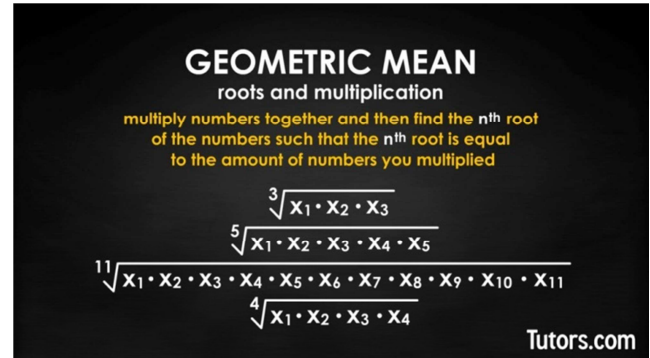
We can consider a formula called Expected Negotiated Outcome (ENO) where $ENO = U_n - 1/2 (U_n - U_{n-1}) = T$ where U_n is our own preferred outcome where U_{n-1} is preferred outcome of opponent where T is our minimum expected target from the negotiation [57].

This model informs as that as parties negotiate from their initial positions, they inch their way slowly towards halfway of the difference in their demands which is subtracted from their initial offer or asking price. This model is simple and practical. However, we can argue that this is not always the case as the bargaining power of parties to a negotiation are not always at par.

Another formula we can consider is a mathematical modeling of sales and purchases in their Negotiated Settlement Price formula as $NSP^{S \text{ to } P} = \sum NS (x^{S \text{ to } B} (P_i^j) W_i^j$ [40].

The above formula states that negotiated price is a summation of a range of prices that are weighted according to the bargaining power of the sales people and the purchasers in the haggling process. This formula can be generalized to any negotiation process as being a sale and a purchase.

We propose our model below as the Geometric Mean model. We could also have used the Harmonic mean formula.



Source: Tutors.com.

Figure 7. Geometric Mean Formula.

We will assume that negotiation is a growth process that can decay or increase in magnitude where increase means success or positive outcome and decay means failure or negative outcome. In this case we choose to model negotiation using the Geometric mean formula where the geometric mean is found as the n th root of n items where the n items are multiplied as shown in Figure 7. With three variables, we find the third root of their product and with eleven items we find the eleventh root of their product. For our negotiation model, we shall assume three variables namely N , P , and Q where

N represents both the Context and Content of negotiation

P represents the power of the protagonist

Q represents the power of the antagonist

N , P , and Q variables are all scored using the Likert Scale score which ranges from 1 to 5, as rated by experts by using Gallup Polls and Delphi Technique to obtain the rating from them. Thus the model is a multiplicative model.

Content is disaggregated as $= f$ (Experience of Negotiators, Behavior/Character of Negotiators, Sweeteners/Incentives provided, Strategies, Perceptions/Assumptions, BATNA, Time Duration). It has nine (9) variables

$$C_1 = X_1 + X_2 + X_3 + X_4 + X_5 + X_6 + X_7 + X_8 + X_9$$

C_1 represents Content factors of Negotiation

X_1 represents Experience of Negotiators

X_2 represents Behavior or Character of Negotiators

X_3 represents Sweeteners or Incentives provided during the process of negotiation

X_4 represents Strategies adopted during the process of negotiation

X_5 represents the Perceptions and Assumptions held by negotiators

X_6 represents strength of BATNA or Best Alternative To A Negotiated Agreement

X_7 represents the Time Horizon available for the negotiation that is dictated by pressure from stakeholders, cost of venue, and other extenuating factors

X_8 represents Needs' Appetite

X_9 Expectations

Context is disaggregated as $C_2 = f$ (Culture, Financial Strength/ Market Share/ Reputation, Brand)

C_2 represents Context factors which are

X_{10} represents Culture

X_{11} represents Financial Strength and Market Share or Reputation or Popularity of Brand

Name

A model such as this could be used by potential negotiators to compute their chances of success at any particular negotiation and also this model can be of interest to researchers and intellectuals who can use it to carry out research into past negotiations and also into on-going negotiations to assess likely outcomes. In the above model, the result obtained, R, should be multiplied by 10 in order to express it as a percentage probability. For example after finding the Geometric Mean (GM) and the result is five (5) we shall multiply it by ten to express it as 50% chance of success.

6. Conclusion and Recommendations

Re-negotiating conditions of service for existing employees is a huge exercise that requires tact, diplomacy, persuasion, and objectivity. The exercise has to be conducted in a professional manner to leave everyone satisfied. It should be a give-and-take exercise with the overall purpose of rewarding performance, loyalty, innovation, and productivity, with the view to retaining the best talent and attracting best talent from outside. It is a balancing act of not giving too much away and not giving too little to claimants, and always being fair, objective, and transparent.

Recommendations and Suggestions

1. From the Literature Review, Findings and Analysis, and Discussion, it can be seen that the task which was given to Alfred was enormous and as such he should constitute a team of experts both from within and from outside to do the job of renegotiation of employment contracts.
2. HSSC should have outsourced the task as it was a sensitive task. A preliminary task force could have been set up by engaging an independent outsourced company to do an independent assessment before asking Alfred to use the results of the independent task force to be the basis or benchmark for further assessment by him.
3. Alfred should have been given time to settle down and also he should have been sent for a refresher course or been sponsored to go for attachment to a reputable consultancy firm to under-study how a renegotiation of contracts is

done.

4. There should be a selective renegotiation exercise whereby only those with say three months to the end of their three or four year contracts should be engaged in the exercise to save time, effort, and money.
5. HSSC should come up with HRM policy of asking employees to upgrade their skills, qualifications, and knowledge whilst on the job and, if by the end of their contract they had not attained those qualifications and skills, they should count themselves out of job.
6. It would be cheaper for HSSC to ask their employees to register with Trade Unions and Professional Associations so that HSSC can have Collective Bargaining with those bodies on a block basis rather than having individual and fragmented negotiations which are cumbersome and tricky.

Appendix

Suggested procedure or steps to follow to re-negotiate employee contract/Checklist

Call for individual files of employees to study

See appraisal results for individuals: Over-achievers, Average, Under-achievers

Check training and additional qualifications obtained in the last year by each employee

Offences (lateness, absence, not reaching targets), poor relationships

New skills acquired

Experience

One - on- one interviews/CVs

Loyalty

Performance-related pay

Market rate

Changes to Labour law

Reporting lines

Conflict of interest

Design questionnaires

Is there Collective Agreement?

Financial status of company; ability to pay; greatest good to greatest number

Transparency, Objectivity, Rationality

Consult widely with DoF/CFO, Ability to pay

Achievements- Best Worker Award

How do you cooperate with colleagues?

What acting positions have you held?

Extra curricula achievements

Competition, Integration, Collaboration, Accommodation

Job expectations, Salary relativities, Work schedules, Workloads

Ego, Assumptions, Emotions, Personalities, Context, Transparency, Honesty, integrative, competitive, collaborative, win-win, zero sum/winner- takes- all approach
Separation, Gratitude, Counseling, Terms of Engagement,

Job Worth, Skill Sets, Management of Expectations, Persuasion, Emotional Intelligence, Social Intelligence, Cultural Intelligence

Job Market Demand

Job Evaluation, Job Worth

Employer fearing losing valuable worker

Performance Review or Salary Review/Transitions, COLA, Inflation, Bonuses, Overtime

Hard and Soft landing Separation

Note

This paper was our own initiative and we bore the cost from our meager resources as we have no access to research funds.

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