

Interview

## **Bruce Patton on mediation as a profession and difficult conversations**

By Eric van Ginkel

**Eric van Ginkel, international mediator, speaks with Bruce Patton, co-author of *Getting to Yes* and *Difficult conversations*, about the development of mediation in the United States, missed opportunities and difficult conversations. He states that there's 'toxic waste' in our thoughts. When you recognize this, difficult conversations can be less difficult. The other thing that helps in difficult conversations is talking to yourself. [1]**

Bruce Patton is a co-founder of the Harvard Negotiation Project (HNP), and as Deputy Director of HNP led it from 1979 until 2009. He is still Distinguished Fellow of the HNP. He is a founder and partner of Vantage Partners, where his work focuses on negotiation and relationship management in supplier, alliance, outsourcing, and merger contexts; managing internal executive teams or cross-matrix conflict; and on negotiation advice and capacity building. Bruce is also a founder and Board member emeritus of the non-profit Conflict Management Group (now part of Mercy Corps). His many publications include *Getting to yes: negotiating agreement without giving in* (with Roger Fisher and William Ury) and *Difficult conversations: how to discuss what matters most* (with Douglas Stone and Sheila Heen).

### **An Interview with Bruce Patton (the unpublished portion)**

**By: Eric van Ginkel**

**Eric van Ginkel (EvG): So, if I may ask, how did you get involved in negotiations and mediation?**

**Bruce Patton (BP) [1]:** I was always interested in problem-solving, and I was advised that if I pursued medicine, which I had a real interest in, as I had a strong science background, that you had to either choose research, in which case you didn't get to see many people, or you had to specialize, in which case you got bored.

It was actually bad advice, as I learned later from the examples set by some of my friends. But I did take the advice and decided I would work on social problems instead.

When I was a senior at Harvard College, Professor Roger Fisher came from the Law School to teach a course for the first time, called "Coping with International Conflict." It was a set of tools and ideas that he had been developing through the 1960s about how you systematically go about trying to make something happen, that made sense to me. This was a critical moment in my life. He was the first person I

had found anywhere in academia who was really interested in solving problems. And tackling problem solving in a systematic way.

As I took his class in College, Roger and I took a liking to each other. It turns out that he had decided to offer me a job several days before I decided to ask him for one. But he didn't tell me that. My section person [2] told him I was graduating and wouldn't be available. As he was thinking about it, I came up with a proposal for how I could get funded to work for him. His "yes" was both amused and fast...

So we improved that course and I went to law school and we did some work for the international peace academy...

**EvG: So you went to Harvard Law School after graduating from Harvard College?**

BP: Yes. (*smiling*) I had hopes of going to a nice warm place such as Stanford, [1] but having found Roger I decided to stay in Cambridge, Mass.

We did some work on peacemaking. Roger had some theories on ceasefires, and we wrote a manual for peacekeepers. Then they asked us to write something about mediation. So Roger and Bill Ury with my help wrote a book called "International Mediation, a Working Guide: Ideas for the Practitioner" [4].

Actually, Cyrus Vance [5] read the book before the Camp David [6] summit between Israel and Egypt in 1978. And he then used the single-text negotiating approach, now called the one-text process, that we first described there.

**EvG: That is just one of several methodologies that you suggest in this book, isn't it?**

BP: Oh yes, the book offers a lot of great ideas. Unfortunately, it is hard to get, but it *is* still available.

A couple of weeks before Camp David, Cy Vance took a vacation and rented a house right next to Roger's on Martha's Vineyard. I went out there and played tennis with Vance, who was a very avid player.

After we had played some competitive tennis, he came over to the house and asked whether we had any advice he could use at the upcoming negotiations between Egypt and Israel to be held at Camp David. We told him we had just written this book and recommended he take a look at these few pages. I am sure he read it and then completely forgot about it. But he let us take a picture with us and the book.

When the US negotiators got to Camp David, they discovered that Begin and Sadat literally couldn't stand each other. They couldn't be in the same room without getting into an argument, and they both threatened to leave. So the mediators decided they had to do some type of shuttle diplomacy, and that is apparently when Vance remembered the idea of the one-text and they decided to use it. It was pretty nice for us to know that it actually worked. He sent us a very nice note afterward.

So Roger had these great ideas and Bill Ury and I were saying to each other “why isn’t everybody in the world beating a path to this door? This is really powerful stuff that ought to be out there.” We concluded that it was so different from the focus of most academics, that Roger was seen by many people as an eccentric, and that there was no institutional backing of it. And people were set in their ways.

We proposed that we set up the Harvard Negotiation Project and give it an institutional identity. Also, this way Roger would get some acolytes. We thought this would be an easy sell, and Roger said, “You know what, I created the Law and Humanities Program, and it was fabulous. But I ended up spending all my time fundraising, and I am a terrible administrator. So, no, I don’t want to do that.”

Bill and I were thrown for a loop and had to think about it. I said to Roger, “can we at least talk about it? Can’t we get some people together to just brainstorm? We’re thinking late August.” Roger said, “I don’t know. Besides, in August everybody will be on vacation.” So we asked, “you don’t mind if we try, do you?” To which Roger said, “No I don’t mind, but don’t get your hopes up.”

In the meantime, Roger went off to China for a month with his son. When he came back we said, “the meeting is all set.” Roger asked, “what meeting?” We said, “this brainstorming meeting, remember?” I said to Roger, “you were right, everybody was indeed on vacation, so they were all free and everybody agreed to come.”

So everybody came: Howard Raiffa [7], Larry Susskind [8], and Jeff Rubin [9], just to name a few, and they all said “this is a great idea and we should do this!”

As a result of Roger’s reluctance, I made a commitment to him that as long as he was the Director of this Program, I would run it.

### **EvG: Fabulous!**

BP: I kept that commitment. Roger became director emeritus two years ago, when Jim Sebenius [10] took over the directorship. I ran it for Roger until then, actually until another year after that. At that time, I retired, - sort of... I gave up most of my administrative duties.

So then we said, “how do we get these ideas out there?” And then it occurred to us that it was not such a big leap from these mediation ideas to negotiation. At the time, there were about nine international mediators. If you changed it to negotiation, obviously you would have an audience of everyone. So we set out to create “Getting to Yes”, which took another few years. And, in a sense, the field got created around us.

I had assumed long since that I would commit to either business or government or academia.

### **EvG: Rather than practicing law?**

BP: Yes. I knew I was never going to do that. Law is a tool that is very useful in this culture, but practicing law was not what I was headed to do. Instead, I found that

I had opportunities at a higher level in all three of the areas of business, government, and academia by staying where I was. We created a consulting firm, a not-for-profit intervention firm, and the Harvard Negotiation Project, and an awful lot happened!

**EvG: Yes, a lot did happen. And you handled all three areas at the same time.**

BP: Yes. Well, with colleagues. The for-profit consulting firm allowed us essentially to keep a larger team employed. There is a limit to what you can do within academia: how many research assistants can you fund?

**EvG: Yes. And you can compensate them much better in a for-profit setting.**

BP: Yes. People naturally gravitated to different places; you could say that I had my thumb everywhere...

### **Eric van Ginkel and Bruce Patton, October 2010**

**EvG: This issue of *Tijdschrift Conflicthantering* is devoted to the subject of mediation as a profession. Generally, in the Netherlands, mediations are conducted without attorneys present, even in litigated cases. Do you know whether this practice exists in other countries? Or is this unique to the Netherlands?**

BP: It varies by country and by context. In the United States, in a commercial context mediations have lawyers present, although not always. But in family mediation and small claims mediation, it is quite rare to have attorneys at the table. Elsewhere it depends. Also, the United States has many more lawyers doing mediations than most other countries.

**EvG: It is striking to see for example how often psychologists become mediators in other countries, whereas that is quite rare in the United States. How has mediation developed as a profession in the United States?**

BP: Mediation has developed in several completely unrelated paths, is my observation. There is peer mediation in schools, where kids are trained to mediate, that has been incredibly successful. It started out as a violence management and reduction program.

Then there is small claims and community mediation, which I think partly grew out of legal training. We started a small claims student mediation program at Harvard, back in 1979. It also grew out of the community dispute resolution programs, such as the one started by Bill Lincoln and such folks [11].

I think commercial mediation was driven in significant part by Endispute, whose founders decided to make a business out of this. Then there was the Center for Public Resources, which created their list of high-profile folks [12]. I think much of commercial dispute resolution has evolved, because it made money for somebody. In places like Florida, Minnesota and Michigan, where they have passed some semi-mandatory mediation requirements, lawyers looking for a new business or more satisfying work thought to themselves, "I can do good and make money at this." And

JAMS, which Endispute and the Bates/Edwards Group merged into, has a lot of retired judges who are making money as mediators [13]. Unfortunately, they are not in many cases doing something that you can really call high-quality mediation, except by the most extended definition.

**EvG: What do you mean by that?**

BP: Well, there is a lively debate about styles of mediation and what mediators ought to be doing, with so-called transformative mediation on one end, and evaluative and directive mediation on the other. Even years ago I remember there was a study in New Hampshire of mediation being done mostly by retired judges who encouraged the parties to address them as 'Your Honor', and whose methodology was similar to what I think is still a common strategy in commercial mediation. It is basically positional mediation, trying to hammer people into making concessions until they meet somewhere in the middle. It's not very creative. It may be better for people than litigation, but it does not leave people feeling very good.

**EvG: Yes, I tend to agree with you, but generally that type of settlement assistance is much in demand, at least here in California.**

BP: It is, and not just in California. But you have to believe, even when the parties don't have an ongoing relationship, that there are many missed opportunities for more creative solutions. I remember a commercial litigation that Professor Roger Fisher and I were asked to mediate. It was four days before trial. The parties were enmeshed in a private antitrust action in California. The plaintiff was a former franchisee of the defendant. He claimed that the defendant had violated the franchise agreement by opening stores in competition with him, and he was suing for more than \$1 million. Each of the parties had already spent about \$1 million in legal fees. They were anticipating \$350,000 as the cost of a three and one-half week trial each. And their decision-tree litigation analysis was nonexistent. In fact, I use this story as a teaching tool to show students why they need to know at least the rudiments of decision analysis. We asked the defendant how much they were willing to offer. They responded, "\$350,000, because that's what we think the trial will cost us." "Wow!", we said, "so you anticipate a 100 percent chance of success?" "No, no, we didn't say that." "Well, that's what it sounds like, since you are not allocating any cost to the risk of having to pay a judgment." The defendant then admitted that they thought they had a 30 to 35 percent chance of losing.

So we asked what they would have to pay if they lost, and they said probably only symbolic damages of \$1. "But even if the damages are only \$1, wouldn't you have to pay their legal fees?" "Well, yes." "And how much do you think their legal fees have been? Is there a reason to assume they were any lower than yours?" The defendant had to admit that was not very likely. "So that could cost you 35 percent of another \$1,350,000, including plaintiff's cost of going to trial."

"And what if the damages turn out to be more than \$1? What if the plaintiff wins \$1 million?" The defendant's counsel conceded that there would also be treble damages to pay. "So maybe there is a 5 percent chance of having to pay \$4.35 million?" At that point the defendant's lawyer – from a very prestigious New York law firm – blurted out, "So that is how you do it, first you multiply and then you add!"

Then we went to the other side, also represented by a very prestigious law firm. With the client in the room, we asked the plaintiff's lawyer what he thought his chances of success were. "Oh, we have a very good case", he responded, which is what the client had heard. So we asked him, "What do you mean by that? Is that 90 percent?" "Oh, I never put odds on that. In fact I believe that is not appropriate." "But what does it mean?", we insisted. "25, 50, 75 percent?" The lawyer responded, "As the former chair of the ABA Ethics committee, putting a percentage on the likelihood of success would be unethical [14]! My client is as qualified as I am to say what a jury will do." So we asked, "Suppose this case was tried before a judge instead of a jury, and the judge understood everything you argued and everything the other side argued, then as an expert on the law, what would you think your chances of success would be?" The lawyer hemmed and hawed, and then finally said, "Well, at least 50 percent." The plaintiff's jaw bounced off the floor! It had never crossed his mind that that was what 'very good' meant.

In the end, Roger asked, "What could the defendant do for you other than paying you money? What else do they have that you might want?" "Well," the plaintiff said, "their product would be nice." Roger said, "You mean you used to sell their product, and you wouldn't mind selling it again?" "Yes", the plaintiff responded. "That's interesting," Roger said, "I thought the defendant was competing with you?" The plaintiff replied, "Oh, yes, they were, but their stores went bankrupt."

So these parties set up their own structured settlement, which enabled the plaintiff to obtain the defendant's products at a highly reduced price. Both parties were very happy with the result. The plaintiff was a really good franchisee and the defendant's stores had gone bankrupt. But it took unusual confidence, even chutzpah, for Roger to ask the question that opened up this possibility! And yet, as he suspected, there was a creative solution waiting to be found. I think too often mediators aren't helping parties look for and find such solutions.

**EvG: In September a new edition of your (co-written) book *Difficult Conversations* will be published. The first edition, dated 1999, became quite popular in the United States and around the world [15]. What are 'difficult conversations'? And why are they important in both personal and business settings?**

BP: We defined difficult conversations as anything you find difficult to talk about. When we started down this path, we were actually thinking we could do a study of what were the ten hardest things to talk about. We had that as a working title. It caused the Psychiatry Department at Massachusetts General Hospital to have me over immediately for a talk, because, as it turned out, they wanted to know what were the ten hardest things to talk about! Unfortunately, by that point we had figured out that it was entirely idiosyncratic. What is difficult for one person is not for another. What makes a conversation difficult has to do with your own history and the way you construct the world, how you feel about yourself and yourself in relationship to others. Not necessarily the topic of the conversation.

Difficult conversations are important because people worry – rightly – about the consequences. In most cases, whatever the subject is, people are worried that if

they have the conversation it may damage the relationship, it may in fact make the situation worse because the other side won't react well, or it may put you at risk as the other side may attack you or may seek to get retribution even for raising the subject or for trying to deal with it. So people end up being very concerned about the potential consequences. And it turns out that their concerns are justified. Those kinds of consequences often do happen if they have the conversations they are imagining.

What is somewhat less apparent to people, but equally true, is that you get most of the same consequences eventually even if you don't have the conversation. Because the problem doesn't go away, and every time you see the person you think about the fact that you haven't raised it and they are doing it again, and what kind of a wimp am I that I cannot deal with this. So if you continue not to raise it you start to avoid the person. And lo and behold, the relationship withers.

I remember a young woman who wanted to talk about her former boyfriend in an exercise we were doing. She told us that they had had these conflicts over various kinds of things, but she always said to herself, "It is not that important to me, and it seems important to him, so we will just do what he wants." So they always did what he wanted. And then he left. She couldn't understand why he left, because they always did what he wanted. I remember the psychiatrist turned to face her and said, "Well, of course he left. You cannot have a relationship with only one person in it!"

In business, the problem is that we live in an environment where conflict is a growth industry. To deal with competitive pressures that are unprecedented, businesses are doing two things that promote conflict: one is to grow. To eke out maximum economies of scale, and not be bullied by competitors, businesses in every appropriate industry are growing to the largest size possible, which in most cases is global. Just to have enough market share and clout to survive. Second, to be adaptive and responsive, and to stay out in front, these companies have to be fleet of foot, so typically they have to flatten the hierarchy. So you get global businesses with flatter hierarchies, which means essentially that they have more people who think in more diverse ways thinking they ought to have more of a say in the decision making. That is a recipe for conflict.

To appreciate just how important difficult conversations are to business, consider how many management fads have come and gone, such as re-engineering the corporation, total quality management, you name it. They come with these persuasive studies showing enormous value at stake. Yet after huge investment, they always seem to peter out with a whimper, at which point people look around saying, "Well, that didn't work!" And only a tiny fraction of the potential value gets achieved.

It's not because the value isn't there. In our view, the problem is that in every case implementation requires people with a lot at stake and very different views about what is the best way to implement the initiative, to reach agreement. That's a difficult conversation! Their job may be at stake, or their status, and they disagree about what to do, usually for good reasons, because each has important and relevant insights. But they don't know how to have that conversation productively, so they end up either having it unproductively or not having it.

So all these incredible potential value drivers break down at the implementation phase. And in the end, not much changes.

**EvG: In your book, you indicate that within any difficult encounter, there are usually three distinct conversations present. Can you talk a little bit about that?**

BP: Well, if you compare how people deal constructively with conflict with what happens if they don't, we found that whatever the topic is that someone finds difficult, they get into difficulty by acting in a certain way. Yet from the individuals' point of view, they don't see themselves as acting differently. They think they are acting appropriately in response to the situation.

As observers, we can see that when our colleagues are having a difficult interaction, they behave differently than they usually behave. The rest of the time they are productive.

But when we are the protagonist, we don't realize that our behavior has changed. We just see ourselves responding appropriately to the other party and don't see any interactive effect. But it is there.

When we dug into why people's behavior changes into these patterns that are predictably unproductive, we found that behavior is driven by your thoughts. And we found that in people's heads, in their internal voice, they are talking to themselves about the conversation they are having.

**EvG: Is that so-called 'self-talk'?**

BP: Yes, it is self-talk, and it's always there. We found there were three categories of thoughts that people were having. And that there were characteristic patterns that were unproductive and characteristic patterns that were much more productive in each of them. They correlated very closely with what kind of behaviors and what kind of outcomes you were getting out of conversations.

The first category is all about the story. "What is going on here? What's the story? Who caused this to happen? Who is responsible for this? Who should do what about it? Why did this happen?"

The second category is about identity. "What does it say about me that this has happened? Are they accusing me of being a bad person, or a bad manager?" And the third category is about feelings. What to do with the strong feelings that perceived threats to my identity often produce. "I am feeling really angry. Should I let him have it or should I try and stifle it?" Or, "They are crying! My God, what do I do?"

**EvG: You talk about outcome. There seems to be a gap between the typical outcome of a difficult conversation and what people would like the outcome to be, what should be possible as an outcome. In November you are coming to Amsterdam to conduct a workshop. Does your upcoming workshop touch on this issue, this gap?**

BP: Yes, absolutely. And not only the gap, which is generally a *huge* gap. The real dilemma that people face is that they will get the bad outcome they fear, whether they have the conversation or not – if they go into it thinking the way we typically do when we are in a difficult conversation. We tend to want to change the other person. That may or may not be possible, but it certainly won't happen until we change ourselves and change the stance from which we approach the conversation. That is something we definitely will talk a lot about and practice in the workshop.

There are two things you need to be able to do to get more productive outcomes, and to make yourself more comfortable in difficult conversations.

The first one is to recognize when your thoughts have the characteristics of toxic waste. You know that if you say them they are likely to be provocative, and you know that if you don't say them they are likely to be corrosive inside of you. When I ask people, they say, "Yes, I can tell when my thoughts are toxic."

The second thing you need to be able to do is to talk to yourself. I ask people to think of a time when they were on the edge of doing something unproductive and when they were able to persuade themselves to take a deep breath and think of another way to go forward. Everybody has examples of that, so we know we can talk to ourselves. And that is what it takes.

What we talk about in the workshop is: all right, what do you say to yourself? What are the things to watch out for? And we take a look at where the toxicity comes from. And what kind of shift you need to make in your thinking that doesn't take anything away from the importance of what you have to say. Because if you are upset, you have something that needs to be shared and is valuable. But it is like radioactive gold. You need to get rid of the radioactivity so that people can use the gold.

So we take a look at the theory. It is simple, and easy to see it in other people. The challenge is to be aware of it when you do it yourself. We take a look at the ways in which we put radioactivity on our stuff, such that whatever we say we are going to get in trouble if we are starting from that point. The shifts we can make are relatively subtle in some ways, but they can have a huge, huge impact.

**EvG: So is it fair to say that the common trap that makes a conversation difficult is that we are all self-obsessed?**

BP: I wouldn't put it that way. I would say that if we are trapped by anything it is the fact that we have eyes in front of our head. So for us, the problem is always out there. If we are watching two colleagues that are in trouble, we understand that they are both part of the problem. But if we are one of the two colleagues that everybody is watching, there is a tendency, since our eyes are in front of our head, to see only the other person as the problem and not to be able to appreciate what we might be doing, what we might be contributing. It doesn't even mean that we are to blame, because often people get in trouble by doing things that are in no way blameworthy. They are just different, and they intersect badly.

Take time, for example. Some people get really bent out of shape if you are two minutes late. They feel it is disrespectful, that their time is worth more than that. Half the world feels that way. But the other half feels that you can't possibly know when a meeting is going to start until it starts.

**EvG: So how can we stop the blame game? What are some of the techniques that we can use?**

BP: The first step is the realization that when anything serious goes wrong, especially in an organization or within a relationship, there are always multiple contributions. Not necessarily blameworthy ones. But multiple things that everybody did or didn't do that helped things come out as they did.

Take for example a company that made the strategic decision to build a new plant, because they thought they needed to be bigger in order to bully the market. And they built this new plant at a cost of a billion dollars, and it lost money. And the company continues to lose money. So they fire the plant manager and put in another one. And then they fire that one and put in their best plant manager, and it still loses money. They are about to fire that guy.

Then they decide to hire a consultant, who points out that the market price in that industry is determined by supply and demand. The company built the largest plant on earth, so it substantially increased supply, and therefore the market price went down. When comparing the company's production costs with those of its competitors, the consultant finds that the company is not the low-cost supplier. In fact, the company is a medium to high-cost supplier. And the company was barely breaking even when it started to build this plant. In sum, the consultant points out, "So you built a new plant, you lowered the market price, and it is below your cost of production: you killed yourself!"

In the meantime, the person who had proposed building the new plant has been promoted to CEO. You look at that situation and say, "Whom do you blame?" And you know, if you have lived a corporate life, that if you start to play the blame game, it'll be like musical chairs. "Somebody is going to get squashed, let's make sure it is not me." And everybody starts thinking, "Not me, not me!" It does not matter who gets squashed. You can fire the CEO, the plant manager, it does not matter. It is not going to increase your confidence in that company. It is not going to take away any of the dysfunction of the company.

Instead, you can ask a different question: "Who contributed in some way, by action or inaction, that you can imagine if they had done something different the outcome might have been different? And let us list all of the people who might have done something." There must have been a ton of people who had their doubts about that strategy. But then why didn't they express them? Undoubtedly, there were those who made it uncomfortable for people who said things like that. So everybody who made it difficult to raise doubts also contributed. As did the Board of Directors that approved that strategy, and promoted the guy whose idea it was, and the auditors who reviewed it. Obviously, there were a lot of people involved, and a lot of things would have to change to fix that company.

When things go wrong in a complex system, it is the result of multiple failures. If your goal is to fix it, you need to ask a different question than who is to blame: "How did we collectively do something stupid without realizing it?" It did not seem stupid at the time.

**EvG: So would it be correct to say that it involves an analysis of the causes rather than linking them to the particular behaviors of people?**

BP: Yes. You are looking for multiple causes. And the truth is that if you have a real screw-up in your company, they are easy to get rid of. You get in trouble when smart people do things that appear stupid in retrospect. Then you know you have a systemic failure. And those are the conversations where we tend to waste an immense amount of time figuring out who is to blame.

Or take another example. A strategic alliance. Things always go wrong. You know, something gets delivered late, or it takes longer. You can kill an alliance and all its potential value if the reaction, which you know will be the reaction of executives at some level or another, is, "Whose fault is it? Make them pay for it!" You can literally fall into a black hole arguing about that. And it is inevitable that you will have a whole string of these kinds of mishaps.

An alliance works reliably only if the people at the interface are competent enough and confident enough that when these kinds of things happen, they stop and say, "Let's figure out how we got into this situation without worrying about blame. And what do we need to do to fix it?" When executives come down and say, "You make them pay for this!", the good relationship managers reply, "You know what? We will make sure that costs are allocated fairly." "Oh, but this is going to screw up my numbers for this quarter!" "Well, if that is the way it comes down, I am sorry about that. But let's see what we can do, because I guarantee you your numbers will be a lot worse next quarter if we don't handle this right." And that is what it takes.

In any kind of complex relationship, whether a strategic supplier relationship or a strategic alliance, if you don't handle the inevitable flood of conflict that pops up every single day in a sensible side-by-side approach of let's figure it out, let's fix it, you will never reap the benefit of complex relationships. They will die. And yes, indeed, if somebody should pay, then let's figure it out fairly on the merits.

You could say that businesses have spent the 90's and now most of the 2000's trying to deal with competitive pressure by doing cost cutting and other low-hanging fruit kind of things to make themselves more productive. Yet I know very few people who work in organizations where they say, "This is a place that is perfectly run." Anybody in a large organization is thinking about all the ways that are crazy about the place.

For the next ten or twenty or fifty years the really hard work is going to be to figure out how we make conflict within our organization not a cost center or a potential killer, but actually an engine of innovation and a competitive advantage. Because conflict inevitably means there is something we are missing, there is an opportunity for getting ahead of the curve faster than our competitors by seeing

something coming. The question we should be focusing on is, “How do we make managing conflict routine, low-cost, and safe enough for people to take it in stride?”

Because the measure of a good relationship is the degree of conflict you can take in stride, whether it is a personal marriage or a business relationship. There is always conflict and in a bad relationship it blows up, and in a good relationship you take it in stride. We have to make dealing productively with difficult conversations a routine core competency.

**EvG: I like the comparison you make between a marriage and an employment relationship in business. Somewhere in the mid to late 80’s, the commitment of companies towards their employees shifted dramatically, and it became a much looser relationship in which it was acceptable to let people go if the color of their hair was no longer attractive enough. I believe that is part of the problem that you are signalling, and one of the reasons why these conversations have become more and more difficult.**

BP: I believe that too. It dates back to the moment when personnel became ‘human resources’. A lot of people seem to like the term ‘human resources’. I like ‘personnel’ or ‘people’ myself. The expression ‘human resources’ dates from a time when there was a dominant metaphor for organizations that took hold in academia and in the business world of ‘organizations as machines’. It not a very good metaphor in many different ways.

**EvG: What is new in the new edition of *Difficult Conversations* coming out in September 2010?**

BP: We answered ten questions that extend the ideas into different areas that people find challenging. For example, how do you deal with conversations that are going on by e-mail, or over the phone? How is that different? There is a lot of research about how that is different and what to do about it. Also how do you take account of different cultural contexts and expectations?

And, what do I do when I know that I’m stuck in my identity? I keep having the same bad conversations. Afterwards I can figure out exactly how I got triggered and why I did what I did, but I cannot seem to change it. I keep doing this thing that gets me in trouble. So where do I go from here? In other words, it is a number of questions that we get asked a lot, so we know they are of interest. It adds up to almost 60 pages of new material added as a new section at the end of the book.

**EvG: When are you coming to Amsterdam?**

BP: On November 10 and 11, I am putting on a two-day Difficult Conversations Workshop for business leaders, and the night before I am doing a three and one-half hour session for the general public. That will be broader in its applicability. It is an overview for people who are unable to take the full two-day workshop.

**EvG: Bruce, I want to thank you for this interview. I wish you much success with the new edition of *Difficult Conversations* and with your workshops in the Netherlands.**

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## **End Notes**

1. Bruce Patton is a co-founder of the Harvard Negotiation Project, and as Deputy Director of HNP led it from 1979 until 2009. He is still Distinguished Fellow of the HNP. He is also a founder and partner of Vantage Partners, where his work focuses on negotiation and relationship management in supplier, alliance, outsourcing, and merger contexts; managing internal executive teams or cross-matrix conflict; and on negotiation advice and capacity building. Bruce is also a founder and Board member emeritus of the nonprofit Conflict Management Group (now part of Mercy Corps). His many publications include GETTING TO YES: NEGOTIATING AGREEMENT WITHOUT GIVING IN (with Roger Fisher and William Ury) and DIFFICULT CONVERSATIONS: HOW TO DISCUSS WHAT MATTERS MOST (with Douglas Stone and Sheila Heen).
2. Comparable to a mentor
3. located near Palo Alto, California
4. International Peace Academy, New York, NY; published in 1978. Now available from the Program on Negotiation at Harvard Law School Clearinghouse or directly from the Harvard Negotiation Project.
5. Cyrus Vance was Secretary of State under President Carter, and served from 1977 to 1980. A champion for negotiations over conflict, Vance pushed for a détente with the Soviet Union by conducting negotiations and creating economic ties, arms reduction, and the return of the Canal Zone to Panama. He is largely credited with the success of the Camp David Accords between Israel and Egypt, signed on September 17, 1978.
6. Camp David, officially known as *Naval Support Facility Thurmont*, is a mountain-based military camp in Thurmont, Maryland used (since 1942) as a country retreat by the President of the United States and his guests.
7. Professor Emeritus of Managerial Economics at Harvard, co-founder of the Program on Negotiation at Harvard Law School (“PON”), co-author of APPLIED STATISTICAL DECISION THEORY, (with Robert Schlaifer), and author of THE ART AND SCIENCE OF NEGOTIATION and NEGOTIATION ANALYSIS (with John Richardson, and David Metcalfe).
8. Co-founder of PON; first Executive Director of PON; Professor of Urban and Environmental Planning at Massachusetts Institute of Technology (MIT), founder of the Consensus Building Institute.
9. Also one of the co-founders of PON; social psychologist and Professor at Tufts University, and expert in third-party processes in international negotiation; Prof. Rubin died in a mountain-climbing accident in 1995.
10. James Sebenius is a Professor of Business Administration at Harvard Business School. He was instrumental in the School’s decision to make negotiation a required course in the MBA Program. In 2008, he succeeded Roger Fisher as Director of the HNP. Among his major publications is 3-D NEGOTIATION: POWERFUL TOOLS TO CHANGE THE GAME IN YOUR MOST IMPORTANT DEALS (with David Lax).
11. Bill Lincoln is the Executive Director of the Conflict Resolution, Research and Resource Institute, Inc. (CRI), see [www.cri.cc](http://www.cri.cc). Bill’s early experiences include direct intervention in riots within adult correctional institutions, public school desegregation crisis and Native American affairs. His work began in 1967 when he spontaneously mediated a racial disturbance in Rochester, New York. He played a leading role in community mediation in the 1970s and 1980s.
12. Now called the International Institute for Conflict Prevention & Resolution, see [www.cpradr.org](http://www.cpradr.org)
13. Formerly an acronym for Judicial Arbitration and Mediation Services, JAMS is the world’s largest for-profit dispute resolution provider. Especially initially most of its neutrals have been retired judges. In 1994, San Francisco-based Bates/Edwards merged with Boston-based Endispute, which in the same year merged with JAMS.
14. Formally called the Committee on Ethics and Professional Responsibility of the American Bar Association.
15. D. Stone, B. Patton and S. Heen, *Difficult Conversations, How to Discuss What Matters Most* (with a foreword by Roger Fisher), Viking/Penguin Books, 1999; second edition 2010. The (sold out) Dutch version appeared in June 1999 under the title *Moelijke Gesprekken, Handleiding voor het voeren van gesprekken waar je als een berg tegenop ziet*, Spectrum, 1999.

## **About the Author**

Eric van Ginkel is an international arbitrator and mediator, and an Adjunct Professor of Law in Dispute Resolution, at the Straus Institute of Pepperdine University Law School. In addition to intellectual property matters, he handles a large variety of matters, including complex business and commercial real estate disputes. Eric van Ginkel is the co-editor of the IBA Mediation Newsletter. He serves as arbitrator and/or mediator for several US and international dispute resolution institutions ([www.BusinessADR.com](http://www.BusinessADR.com)).