

# Escaping the Tragicomedy: Is Principled Negotiation between the United States and North Korea Possible?

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## Abstract

This article asks whether “principled negotiation” as explained by William Ury and Roger Fischer in their classic book *Getting to Yes* is possible in the context of negotiations between the United States and North Korea. Answering this question leads to a description of two competing schools of interpretation among American analysts trying to explain why negotiations since the end of the Cold War have failed genres. In the end, however, it seems impossible to judge which of these schools—the comedic and the tragic—is correct. Instead, the article concludes by proposing two principles of interpretation—indeterminacy and entanglement—in place of the two.

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Each year I ask my undergraduate students to engage in a simulated negotiation to try to resolve the security dilemma that keeps the Korean Peninsula stuck in a state of perpetual hostility and division. They do their own research to learn more about various aspects of the conundrum, including the specific national interests that each negotiating team brings into the room. But the one thing everyone has to read in common is the bestselling guidebook to negotiation, *Getting to Yes: Negotiating Agreement Without Giving in*, by Roger Fisher and William Ury (New York: Penguin, 2014). The students' task is to act out a principled negotiation together as a class, applying Fisher/Ury's four steps: separating problem from people; identifying mutual gain; inventing new options; sticking to objective criteria. My students have not yet come up with the perfect agreement to solve the riddle of peace in Korea. But every year, it seems to me when all is said and done my undergraduates do a better job than the adults in charge of diplomacy.

### Listening for the Language of Getting to Yes

With its sunny title, *Getting to Yes* might seem an unlikely paradigm for approaching talks with Kim Jong Un's Democratic People's Republic of Korea (DPRK), widely considered a rogue actor and pariah state that operates outside of the international system and as a spoiler to any constructive framework for negotiation. If you listen carefully enough to North Korea's state media, however, you can hear the language of principled negotiation, or elements of it, at least. The DPRK foreign ministry regularly

puts out statements that affirm the principle of mutual gain, for example.

Even the Supreme Leader himself, Kim Jong Un, has been known to employ a rhetoric compatible with principled negotiation. "Dialogue partners will reach the destinations that are beneficial to each other without fail if they put forward fair proposals on the principle of recognizing and respecting each other by abandoning their dogged insistence broadmindedly and conduct negotiations with a proper stand and the will to settle issues," Kim explained in his 2019 New Year's Day Address. In the flurry of diplomatic signaling after the failure of talks between Kim and then-US President Donald Trump in Hanoi (February 2019), we heard a lot about Fisher/Ury's third step—inventing new options—in what North Korea described as the need for a "new method of calculation." Addressing the impasse in diplomacy with the U.S., Chairman Kim's remarks to the Supreme People's Assembly on April 12, 2019, can easily be read in terms of principled negotiation as separating people from problem (the United States vs. hostility in US-DPRK relations), affirming mutual benefit by "meeting each other's interests," and sticking to established criteria (the Kim-Trump Singapore Statement from June 2018). "Given the deep-rooted animosity between the DPRK and the United States, in order to implement the June 12 Joint Statement both sides should give up their unilateral terms and seek a constructive solution that meets each other's interests. To this end, it is needed above all for the United States to approach us with a new way of calculation after putting aside the current one," Kim explained to the First Session of the 14<sup>th</sup> Supreme People's Assembly. Chairman Kim took the idea of separating problem from people one step further by pointing out that the deep animosity in the relationship went beyond his "personal" relationship with a particular US president—even if his relationship with President Trump was good, that would not solve the bilateral dilemma.

Like their North Korean counterparts, American officials, for their part, routinely insist that they are acting

on the premises of principled negotiation. Trump and Biden administration officials—most recently, special envoy Sung Kim—insist that the United States bears no hostile intentions towards North Korea and approaches negotiations in a spirit of mutual benefit. US diplomats promise they too are open to new ideas as ways to break the logjam, such as the South Korean government’s proposal of making an end-of-war declaration. And it is fair to say that US diplomats are most eager to encourage reliance on objective, established criteria, such as the September 19, 2005, Joint Statement of the Six Party Talks, Joint Declaration of South and North Korea on the Denuclearization of the Korean Peninsula (1992), and, most importantly, Treaty on the Non-proliferation of Nuclear Weapons (NPT). At least officially, Washington also claims to separate the problem—defined as North Korea’s possession and development of nuclear weapons—from the people (the Kim regime) and shows willingness to deal with Kim Jong Un in order to address the underlying problem.

## Two Ways to Read Failure

By now, the mind of a skeptical reader will be seething with objections to either or *both* descriptions, thinking of manifold ways in which either North Korea or the United States violate the four key principles of principled negotiation. And even if a dubious reader could be persuaded there is at least a modicum of commitment to principled negotiation on both sides, the record would seem to speak for itself. Although every president since George H. W. Bush has authorized officials to engage in talks with North Koreans, no negotiation has seemed to work. It is a record of failure.

There have been three intensive periods of US-DPRK negotiation—during the Bill Clinton administration over the Agreed Framework, during the George W. Bush administration via the Six Party Talks, and during the

Trump administration at Singapore and Hanoi. The most comprehensive process, during the Clinton years, failed to survive the transition to a new president. All three efforts failed to produce a lasting settlement, as did the brief burst of US-DPRK talks during the Barack Obama administration in the second half of 2011, which resulted in an agreed announcement (the Leap Day Deal) that both sides walked away from before the ink was dry. Neither side can claim victory in US-DPRK negotiations since the end of the Cold War, despite numerous efforts, in different modalities (bilateral, tripartite, four-party, six-party), at varying levels of government (from the New York channel up to presidential summits).

What explains the decades of failure in negotiations between the US and North Korea? I am not the first person to pose the question, of course, and there is much to learn from the existing literature on patterns in US-DPRK negotiating behavior. Many of the best-known analyses focus on a distinctive feature of the experience—the maddening nature of North Korea’s negotiating tactics—and drill down from there. Scott Snyder’s *Negotiating on the Edge: North Korean Negotiating Behavior* (United States Institutes of Peace, 1999), for example, offers a cultural interpretation to explain why North Koreans used crisis diplomacy, brinkmanship, demands for unilateral concessions, bluffing and threats, and artificial deadlines during the Agreed Framework discussions of the 1990s. The description of North Korea’s bag of tricks is a common feature in the literature. However, when it comes to explaining the significance of North Korean guerrilla negotiating style, as part of the general challenge of doing diplomacy with Pyongyang, two competing schools of interpretation emerge.

The best way to describe the difference between the two lines of analysis may be to draw upon literary theory, odd as that sounds. There are, broadly speaking, two genres of interpretation in reading North Korean negotiation—the comedic school and the tragic school. Reflecting on how

these rival schools of interpretation frame the debate about whether and how to talk to North Korea might help future efforts at negotiation.

## The Comedians

One of the earliest accounts of North Korean negotiation was Admiral C. Turner Joy's book about the Korean War Armistice talks, *How Communists Negotiate* (New York: Macmillan, 1955). From Joy's classic study all the way down to commentary on the unconventional summits between Kim Jong Un and Donald Trump, the dominant genre of interpretation of North Korean negotiating behavior among American observers and analysts belongs to what I call the comedic school.

The comic theory of the case was put well by the former Pentagon official Chuck Downs, who, as a fellow at the think tank American Enterprise Institute, wrote a study of Cold War-era US-DPRK negotiations, including thorny issues like the release of US sailors from the USS Pueblo incident of 1968. In Downs' view, North Korea "does not generally participate in negotiations because it seeks an agreement. Its objective is to gain concessions and benefits merely in the process of agreeing to talk, or as a consequence of participating in talks" (Chuck Downs, *Over the Line: North Korea's Negotiating Strategy*, Washington, DC: AEI Press, 1998, 10). More recently, former CIA analyst Bruce Klingner—like Downs, a fellow at AEI—encapsulated the comedic school's view of North Korean intention even more succinctly in the title of his article on the Obama-era Leap Day negotiations. In Klingner's view, the Pyongyang playbook is to deny, deceive, delay (Bruce Klingner, "Deny, Deceive and Delay: North Korea's Nuclear Negotiating Strategy," *The Journal of East Asian Affairs* (Fall/Winter 2012): 1-24).

According to the comedic school, virtually everything North Korean negotiators do is born from the bad faith of

deny, deceive and delay. Underlying the comedic reading of negotiating behavior are a common set of premises about North Korea's true strategic objectives, which could be classified as minimal goal, corollary objective, and ultimate aim. Minimally, North Korean diplomats seek to force the United States (and by extension the international community) to relent and recognize the DPRK as nuclear state. As a corollary goal, North Korea seeks to split the US from its allies and stress the US-ROK alliance to the breaking point.

The maximal goal is achieving the "final victory" of coercive reunification of the Korean Peninsula—absorbing South Korea into the North and dissolving the ROK under Kim family/ Korean Workers' Party rule (Jung H. Pak, *Becoming Kim Jong Un: A Former CIA Officer's Insights into North Korea's Enigmatic Young Dictator*, New York: Ballantine Books, 2020). As former National Security Advisor H.R. McMaster put it, "Kim Jong-un may want to keep his nuclear weapons really for reasons of extortion... to rend the U.S.-South Korean Alliance as the first step in saying what the Kim regime has said it wants to do... which is to unify the peninsula under the quote 'red banner'... what the North I think envisions, has envisioned over the years, is dragging South Korea down as a way to equalize the playing field and to begin this unification" (H.R. McMaster, "Instruments of American Power: Implementing Foreign Policies and Protecting Against Global Threats," *Foundation for Defense of Democracies*, October 10, 2019, 18).

Given the comedians' assumptions about North Korea's strategic intentions, it is logical that, in their view, "peace and denuclearization" diplomacy, and negotiations designed to advance those goals, is a farce. North Korea's actual goals—coercing adversaries into recognition of its nuclear status and reunification of the Korean Peninsula—are the negation of the stated objective of the diplomacy. With the weary voice of the jaundiced comedic observer, McMaster explains what he saw unfold over the course of the Trump administration: "And then of course we know what happens

next. Long, drawn-out negotiations during which the North Koreans try to extort more money and pay offs from us, and then ultimately what do you get? You get a weak agreement that locks in the status quo as the new normal, and then North Korea breaks that agreement right away” (McMaster, “Instruments of National Power,” 18).

The stress on the absurdity of repetition is a hallmark of the comedic interpretation of North Korean negotiation. Repetition is a standard trope in the comedic genre in general. Just watch one of the funniest scenes from one of the most famous sit-coms in American television history, “I Love Lucy,” in which Lucy and her friend Ethel work the assembly line at a chocolate wrapping factory. The audience starts laughing as soon as the conveyor belt starts running, anticipating how accelerating repetition will lead to comic disaster. “I think we are fighting a losing game,” Lucy says before she starts popping chocolates in her mouth in order to keep up with the line. So it is with the comedic critics of North Korean diplomacy, who see something bitterly funny about DPRK officials using the same tricks again and again. Even funnier, in a sad way, is how American negotiators fall for them, naively stuffing bonbons in their mouths. As McMaster quipped about negotiating in good faith with Pyongyang, “that’s the definition of insanity, if we do that again.”

For members of the comedic school, negotiation is inevitably a painful and possibly humiliating ruse. There is no such thing as a successful negotiation with North Korea. Even if the talks appear to result in a written agreement or joint statement, Pyongyang will inevitably reinterpret the agreement after the fact, violate its terms, or walk away from the implementation process while blaming the other side. Based on their conviction that negotiating with Communists is a fool’s errand, hardened American observers in the comedic school were quick to pour cold water on the diplomatic breakthrough between the two Koreas in early 2018. Retired US military negotiator Steve Tharp wrote a column comparing the process to another

funny Lucy, the character from the *Peanuts* comic strip who holds the football for Charlie Brown and grabs the ball right before he kicks it, so that Charlie falls on his fanny. The joke got funnier as Lucy did the same trick over and over again, each year for the annual kickoff episode of *Peanuts* (Steve Tharp, “Lucy and the Football,” *Korea Times*, April 23, 2018).

During the moment of hope-tinged relief in Seoul as the “fire and fury” of 2017 shifted toward dialogue and negotiation in the spring of 2018, Bruce Klingner alluded to another standby of the comedic school, the movie *Groundhog Day* in which Bill Murray’s character is cursed to re-live the same day. “The more I read today’s inter-Korean statement and reread the 1972 Joint Communiqué, 1992 Basic Agreement, and 2000 and 2007 summit joint statements, the more I feel we are in *Groundhog Day* again,” Klingner tweeted. He continued, tongue in cheek, “North Korea agreed to non-aggression statement in 1992 and 2007, then abrogated them, along with armistice, in May 2009 and again in May 2013. Much of today’s language seems lifted from previous agreements. Can Moon and Kim be penalized for plagiarism?” (Bruce Klingner, Twitter, April 27, 2018, 11:03pm).

The comedians’ solution to the problem of negotiating with North Korea is simple: never take the talks seriously. There might be valid reasons to sit down for discussions with the DPRK—to placate pro-engagement allies in Seoul, for example, or to pre-empt Beijing’s argument that the fault lies in Washington’s refusal to engage. It is not inherently harmful to enter into negotiations... so long as the American team harbors no illusions about they are doing. Charlie Brown can walk onto the field and act like he’s ready to start the game with the kickoff—but he should not be suckered into actually kicking the ball, no matter what Lucy says or does. Meanwhile, the other tools in the box—deterrence signaling, economic sanctions, alliance coordination, and international opprobrium—do the real work of dealing with the DPRK.

## The Tragedians

While the comedic paradigm would appear to be the dominant one in Washington DC, not every analyst or informed commentator on North Korean negotiation agrees with it. Indeed, there exists an antithetical genre of exegesis on the transcripts of US-DPRK talks offered by a group I call the tragedians, exponents of which might include commentators such as Leon Sigal, Joel Wit, and probably the present author.

Observing the same frustrating North Korean negotiating tactics, adherents of the tragic school view them through the lens of a fundamentally different assessment of North Korea's strategic goals, which are defensive in nature. The Kim's ultimate objective since the end of the Cold War, when the DPRK lost its dual patrons of the USSR and PRC, has been to increase security against political-military threats—acquiring a nuclear deterrent and improving relations with the US are the most powerful means to that end. The rising power and influence of China added impetus to that goal both for Kim Jong Il and even more for his son, Kim Jong Un, who took power in 2011. A corollary objective has been improving relations with US allies, starting with South Korea, and regional partners, like Singapore and Vietnam. Under Kim Jong Un, the primary strategic goal has been redefined as transforming North Korea into a prosperous East Asian country, integrated into regional dynamism and no longer the region's backwater—a “new strategic line” that Kim announced in April 2018 in the context of breakthroughs with Seoul and Washington. However, these objectives must be pursued with extreme caution, given the deep animosity in relations with both the US and the ROK and difficulty in achieving a genuine transformation of the relationships. For example, Kim Jong Un had to back away from the new line of “putting all efforts on economic development” after the failure of negotiations in early 2019 (and step back further with the onset of the pandemic in early 2020).

From this theory of North Korea's long game (to borrow a phrase from Rush Doshi), the diplomatic banner of “peace and denuclearization” lofted back in 2018 appears realistic and plausible, albeit difficult and time-consuming. Peace with the DPRK in the sense of normalizing relations with the US and ROK is achievable, since Pyongyang wants it, with plenty of fears, caveats, and ambivalence. Although North Korea cannot be expected to *want* denuclearization, nonetheless the possibility of progress, starting with capping and rolling back nuclear weapons program (as laid out in the roadmap proposed by Siegfried Hecker and Robert Carlin), is real. In the long run, many years or maybe decades hence, it is not inconceivable that the DPRK would be in a position to eliminate their nuclear weapons capabilities, but only *after* a long, sustained process of normalization, peace-building, and economic development.

Working off this very different set of assumptions about North Korea's strategic interests, the erratic or intransigent behavior of its negotiators looks very different. Instead of obstructionism, North Korean tactics are generally interpreted as something like what James Scott, in a different context, called “weapons of the weak.” Stalling, swearing, and swerving are tricks used to navigate perilous engagement with a hostile, stronger adversary in search of a path to reconciliation and normalization, and doing so from a position of chronic weakness.

Complicating the matter even further, North Koreans ironically see *the Americans* as the party negotiating in bad faith, trying to get everything they want (captured in the acronym CVID, complete, verifiable, irreversible dismantlement) in return for nothing. North Koreans are fatalistic about the cynicism of the dominant comedic school in Washington, with its deep pessimism over the chances of achieving anything through direct negotiations. North Koreans have their equivalent of Lucy and the Football jokes about how Washington (and Seoul) grab the football just before kickoff, either because Congress objects to a deal made by the White House or because the

opposition party wins a presidential election. North Korean negotiators have learned to be skeptical and cautious, although it may manifest as bluster and obstinacy.

According to the tragedians, the repeated failure of US-DPRK negotiations is not funny but sad. Again and again, efforts at rapprochement have ended up being a missed opportunity. The Americans are not innocent buffoons, but rather, tragic heroes who fail to read their interlocutor correctly and squander the chance at progress, becoming victims of their misreading.

The tragedians' solution, in turn, is a more daunting one than the course advised by the comedians. It is up to American negotiators to find the path to mutual gain, holding their counterparts' hands as they walk toward "yes" and then stick with the commitments in the implementation phase. The only way to escape the ongoing tragedy is to make a leap of faith.

## Stockholm Syndrome

Principled negotiation between the US and DPRK is possible in theory if the tragic school is right. But if the comedic school is right, pursuing principled negotiation is a waste of time, and the US national interest would be better served by working on what Fisher and Ury call the BATNA (best alternative to negotiated agreement) of economic sanctions and "strategic patience." Which reading is correct? On what basis can we make a judgment? Is an inductive approach to the interpretation of North Korean negotiation possible, or are we doomed to choosing between two teleological readings, each of which fits observed behavior into its own a priori sense of North Korea's strategic goal?

In an attempt to answer that question, let's look at the most recent round of negotiation, as a case study, held two years ago, in October 2019, at a location outside Stockholm. To problematize the case, let's also turn the question around in order to also ask how North Korean analysts might

interpret US negotiating behavior. Would an America watcher in Pyongyang be able to correctly infer underlying strategic intention from observed negotiation experience?

Steve Biegun, the top US negotiator at the time of the last bilateral interaction, has publicly shared his assessment that his DPRK counterparts came to Sweden in bad faith, and had no intention or authorization to engage in principled negotiation aimed at a constructive outcome or reaching an initial understanding ("An Interview with Stephen Biegun," *NKNews Podcast*, episode 191). But what would the DPRK lead diplomat, Kim Myong Gil, say if he could speak publicly with the same relative freedom as Biegun in his capacity as a former official?

Kim Myong Gil might tell us how his delegation, and the top decision-makers back in Pyongyang, had an ongoing debate over the true intentions of Donald Trump, the Trump administration, and the US government as a whole, in seeking to resume talks. The North Korean equivalent of tragedians—analysts who took Trump at his word in Singapore that this unconventional president wanted to "establish new relations" with the DPRK—would argue that Biegun was sincere in trying to set up a working-level negotiating process. They would note that Biegun was very disciplined in his messaging, consistently seeking a constructive approach, and that he had been promoted to the number two position in the State Department while retaining the North Korea portfolio, elevating the level of US-DPRK engagement. The diplomatic implication of a tragic reading might be that Biegun should be teased out further to see what Trump would be willing to offer, in substantive and symbolic terms, toward North Korea's goals. As Trump's envoy tasked with making progress in finding mutually-acceptable compromise, Biegun should be engaged and, as it were, empowered by robust talks.

But skeptical analysts would be able to counter with strong arguments that Biegun's overture for talks, wittingly or unwittingly, was a stalling device. Even if Trump personally was open to establishing new relations, he was

surrounded by advisors and officials who demonstrated implacable hostility to the DPRK, most notably his National Security Advisor John Bolton, who had stepped down only a month before the Stockholm meeting. And even if Trump personally did not bear animosity and wanted to improve relations, he had failed to convince the US foreign policy establishment let alone Congress to see North Korea in a different light or take his summitry seriously. Moreover, it had become apparent at the time of the Hanoi summit that Trump had lost much of his former enthusiasm for the North Korea issue, as media attention waned. By the time of the Stockholm talks, the White House was already focused one thing and one thing alone: re-election. From that skeptical perspective, the Biegun team would be seen as a stalling device, designed to generate some sympathetic media coverage on Trump's foreign policy chops.

For everything we know about the inner workings of the Trump administration from leaks at the time and the flood of media interviews and published memoirs since, who can say definitively which North Korean interpretation of US negotiating intentions is true? And if we cannot know for sure how to interpret the American side, about which so much more has entered into the public record... who among us can confidently assert whether the comic or tragic reading of the North Korean approach to the talks in Sweden is more compelling? Did Kim Myong Gil travel from Pyongyang to Stockholm as part of an elaborate “deny, delay, and deceive” strategy, buying another chunk of time as North Korea methodically and inexorably works to improve its nuclear/missile weapons capabilities? Or did he carry two sets of instructions—one if it looked like the American team arrived empty-handed, another if he detected something promising from the other side? Biegun described Kim's negotiating posture during the day of talks: “Generally, the [North Korean] view at each session was, ‘What else do you have? What else you bringing?’” (Bryan Betts, “An Interview with Stephen Biegun, Former US Special Envoy to North Korea,” July 14, 2021). Was Kim listening for real or just as a ruse?

## Beyond Comedy and Tragedy: Indeterminacy and Entanglement

Reflecting on the dominant frameworks used by American analysts to interpret North Korean negotiation seem to arrive at an unsatisfying, if not unsettling, conclusion: Whether principled negotiation between the US and DPRK is possible depends on who you ask, a comedian or a tragedian. It seems impossible to determine who is correct. Rather than arrive at a final judgment between comedy or tragedy, the reflection would seem to leave us with a pair of heuristic principles to keep in mind for the time when, almost inevitably, a future round of US-DPRK talks takes place (quite possibly in the next half year). The principles I would like to propose as part of a shared framework for analysis of negotiation are indeterminacy and entanglement.

Indeterminacy means the outcomes is not predetermined. Neither side knows if the play (or the current act of the play) will end in comedy or tragedy. Neither the participants (negotiators and heads of state) nor observers (analysts and commentators) can read the outcome. The notion of indeterminacy is ironic in the context of talking about North Korea, a topic that elicits stubborn certitudes from the mainstream foreign policy establishment as well as fairly predictable arguments from critics on the margins (note: I include my own voice in the latter group and am as guilty of predictability as anyone).

To accept indeterminacy would require an analytical framework according to which Kim Jong Un himself might not be sure of the desired end state, let alone his top diplomats and designated negotiators. Even more unsettling is the proposition that the Americans do not necessarily know their desired endstate, either. Both sides are in flux, pulled internally in different directions, unsure externally which among the realistic options is optimal, or, among optimal options, what is realistic. Both sides are uncertain about the other because the political will behind

each negotiator is, in reality, indeterminate. Embracing indeterminacy may even yield results. Former intelligence analyst and negotiation advisor, Bob Carlin, has written about how persevering through indeterminacy, without clinging to a false certainty, can yield breakthroughs, a moment “usually late in the talks, what was impossible suddenly becomes possible” (Robert Carlin, “Negotiating with North Korea,” *38 North*, February 19, 2019).

The second principle of entanglement is related to the notion of intersubjectivity. Both terms might call to mind (for students of international relations theory at least) the writings of Alexander Wendt. Constructivist theory seems well suited to US-DPRK relations, drawing attention to the fragility of American and North Korean perceptions of one another and the ways in which perceptual feedback loops drive negotiations (usually driving them off a cliff). North Korean negotiating behavior is entangled in their perception of our unspoken goals, just as American behavior is entangled in our perception of theirs. If Wendt offers a deep theoretical basis for entanglement, Carlin provides applied insights of how the phenomenon works in practice. Carlin is worth quoting in a passage that applies the principles of entanglement *and* indeterminacy:

“Depending on the context, if the North Koreans think we are serious about negotiating, there is a good chance they will be, too. If they don’t think we are serious (as was the case with the missile negotiations from 1996-1999), they will simply dance around. Although it would obviously be good to know, and may be a somewhat useful intellectual exercise for setting up mile markers, it’s usually a waste of effort guessing at the outset what Pyongyang’s final position will be. What is more important is to watch for subtle, early indicators of which way the wind is blowing.”

- Robert Carlin, “What Do We Really Know? How Sound Policy Relies on Contextual Intelligence,” *GlobalAsia* 16.3 (September 2021)

Every US administration since the end of the Cold War has engaged in negotiations with the DPRK, under the leadership of Kim Il Sung, Kim Jong Il, and Kim Jong Un. Biden’s turn is up next. Whether the two sides can escape the Tragicomedy might depend on their ability to accept indeterminacy and entanglement. Is principled negotiation possible? It’s up to them to try, and up to us to accept. peace and prosperity.

## Further Readings

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