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IMPROVING THE PRACTICE OF MANAGEMENT

## The new age of negotiation

By Linda Stamato

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# The new age of negotiation

*Negotiation has come a long way. A once purely adversarial, one-time event has evolved into a relationship-based, ongoing process that puts a premium on empathy and co-operation. This author, an expert educator who has played a critical role in improving negotiators' skills and the results they achieve, discusses the substantial changes that have occurred in how negotiations are conducted today.*

By Linda Stamato

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Negotiation is a popular topic these days, in consumer magazines and scholarly journals alike. Business schools, too, are putting more emphasis on negotiating, and corporations are running workshops designed to give their managers a negotiating edge. There are two obvious reasons for the revival of interest in the art of negotiating. For starters, it is clear that unsuccessful negotiation, or the failure to negotiate at all, leads to conflict that is both unproductive and costly. Secondly, there is a recognition that many negotiations fail to maximize potential gains in the outcomes they produce. There is a third, less obvious point: Disputes are not zero-sum situations-one side does not need to lose for another side to win, and all parties do not necessarily want the same thing. Negotiations that take a zero-sum approach can fail to optimize results, if indeed they succeed at all.

This article addresses important questions about the value of negotiation scholarship and expertise

in helping business managers to become more skilful negotiators and to optimize negotiation outcomes.

## Negotiating in public contexts

Negotiation in the public arena ranges from court settlements and dispute resolution programs, to collaboration in policy, planning and community contexts, which can bear significantly on the economy and on business interests. During the last decade or so, considerable amounts of time and energy were spent resolving contentious public policy issues and managing the associated conflicts, and objectives were becoming lost in the process. Our courts were clogged with litigation involving governmental regulatory and civil matters; federal and state administrative agencies were burdened with disputes; and the development and implementation of regulatory policy was mired in legalistic and adversarial rule-making processes.

As a result, society began to look for alternative resolution models, and we witnessed the growth of less costly and time-consuming ways to deal with disputes. These initiatives rest on consensual rather than adversarial models, and thus emphasize the critical importance of negotiation. In the public policy arena, interest-based negotiation and mediation-a process that assists negotiation-predominate because they hold the promise of stable and practical solutions to policy needs and enforcement problems.

Moreover, the fact that issues now have broader implications has also had an impact on the negotiating field. Traditional political structures are no longer aligned with pressing policy and planning

issues that transcend national borders, in areas such as land use, energy, water rights, air quality and waste disposal. These issues demand negotiation and conflict resolution in cross-national or international forums, and expertise that can secure higher standards of environmental protection. Issues that are being addressed by sub-national governing units require no less.

Opportunities for non-traditional negotiating models are proliferating along with the multitude of political structures: regional and interstate approaches, and within municipalities, counties, and so on. Policy-making, decision-making and conflict resolution structures need to take into account the nature and scope of conflicts that arise in all of these contexts, and to manage them constructively. This provides an impetus for parties to negotiate, as well as creating opportunities for them to do so. In demonstrating efficacy, the negotiation experience in turn creates opportunities for other public issues and public needs to be aired, and generates interest among the private sector.

These factors have made a considerable impact on the field of negotiations: agencies are beginning to recognize that process is critical to result, not only in making decisions in the first place, but also in resolving disputes and producing solutions that work. States have institutionalized negotiation processes by creating frameworks that encourage and support negotiation and mediation; public institutions now have a capacity to make decisions that last, and to resolve disputes in ways that build confidence in the system. Negotiating cultures have also changed: everyone from policymakers to agency heads to organized citizens is looking for ways to reach consensus, to involve those who are affected by and need to live with decisions. There is a receptive climate for conflict resolution, and for an educative effect that appears to be sustainable.

#### **Research and practice: Negotiation centres**

Similar changes in negotiation approach are taking

place in private contexts-notably in corporations and businesses. In my view, the heightened interest in negotiation is being fed by experiences in the public domain and by academic enterprise, especially that of highly visible negotiation and conflict resolution centres at Harvard, Michigan, Minnesota, Stanford, Penn State, Northwestern, Wisconsin and my own university, Rutgers.

These centres also offer negotiation training for business managers, both on and off-campus. They have trained lawyers, judges, government officials and business leaders in the creative use of negotiation and conflict resolution. They have assisted parties who are in dispute to reach constructive solutions to specific problems; designed processes and forums for the effective management of conflicts that build on negotiation theory; used innovative but well-tested approaches to resolve disputes involving multiple parties and complex issues where conflict resolution had not been previously attempted. They have been proactive on dispute prevention as well, attempting to manage negotiations so that solutions to potential problems can be explored before differences become intractable positions.

The centres have served as think tanks for a wide variety of issues: they have stimulated research into practical and innovative theoretical strategies of conflict resolution; they have brought together faculty, practitioners and business people, to identify subject matter for evaluation and research that is of interest to those in the field.

#### **Academic enterprise and the corporate world**

Business decisions have to be made and differences managed in ways that advance business needs and purposes. Resolving conflicts, efficiently and effectively, among individuals and groups that are in legitimate contention, is at the core of the contemporary interest in negotiation in the private, profit-making sector. This work lies at the intersection of the study of business, law, policy and

planning.

In teaching, research and practice, the important thing is to understand the dynamics of the negotiation process-what affects the process, who the actors are, why it can fail, what constitutes effective negotiation strategies and tactics, and so on. We know that negotiators do not necessarily act rationally (indeed, they may act against their own, objectively perceived interests). Nobel Prize-winner Herbert Simon sought to understand why bargainers left so much value on the table-issues not negotiated, values not allocated-which rational beings presumably would not do. The work of recent Nobel Prize-winners in economics Daniel Kahneman and Vernon Smith has yielded insight into the importance of how contentious issues are "framed" in negotiation; the operation and impact of psychological factors (e.g., risk aversion, loss aversion, reactive devaluation, dissonance, etc.); the role of empathy and the effect of relationships on the process (and results) of negotiation, and on the compliance rates and the impact of agreements over the long term. In particular, Harvard, MIT and Stanford are focusing their negotiation research on applications that provide practical insight and guidance, such as training modules and frameworks.

There are a number of common themes in all of this work. Firstly, negotiators need to focus on their interests (not solely their positions), which allows interests to be met without compromising critical needs. Secondly, they need to know how to frame issues for constructive negotiation (how one presents or structures an interest can affect how, or if, negotiations go forward).

***In the business world, a process that pits one party against the other and identifies a winner and a loser is ill-suited for devising remedies that work. What is needed, then, are approaches, frameworks, strategies and tactics that advance constructive negotiation.***

Consider, for example, the dispute between the states of New York and New Jersey over Ellis Island. When this issue is framed in terms of who "owns" the island, it becomes a property issue, and the positions become adversarial, legal and rooted in history. Framed as "how best to manage, preserve and develop the island," it becomes a management issue, a resource allocation issue, a problem to be defined, managed and perhaps guided through a bi-state organization, with resources from both states and the federal government, to produce a plan that meets the interests of the citizens of both states, the region and the nation.

A third focus is on the psychological factors that operate in negotiations: if one understands the fact that buyers tend to lower the value of what is to be purchased, while sellers tend to raise the value of what is to be sold (and expectations match both positions), one understands that some objective criteria are essential to aid in negotiations.

### **Interest-based negotiation**

Fundamentally, the challenge is to help people to understand that negotiation is not a zero-sum game. This acknowledgement encourages people to seek options that meet interests and maximize outcomes, without sacrificing critical needs. At the same time, an informed negotiation dynamic tends to preserve and, in some cases, to enhance relationships. This can be an enormously important element for families, neighbourhoods and communities, and within organizations, institutions, and between and among nations. It is particularly important in the business world, as effective transactions frequently require

the establishment and maintenance of relationships. In the business world, a process that pits one party against the other and identifies a winner and a loser is ill-suited for devising remedies that work. What is needed, then, are approaches, frameworks, strategies and tactics that advance constructive negotiation.

The overarching question might be phrased as follows: "How do parties to decisions and disputes, in this competitive, contentious, litigious, adversarial society of ours, transcend narrow self-interest and single-issue preoccupation, retreat from zealous positional bargaining, and ascend to that higher ground that is the turf of contemporary interest-based negotiation advocates?" This is quite a challenge in a world beset by the inability of organizations to deal with problems in effective ways. Yet the same factors that can cause organizations to become immobilized can provide incentives to negotiate in an ordered, collaborative fashion. This is particularly true when the web of interdependence is so great that unilateral efforts to solve problems are rarely successful, create unwanted consequences for other parties, or encounter constraints imposed by others.

In addition to making a strong case for constructive, interest-based negotiation, this work promotes research into aspects of negotiation that can be of use in the contemporary business world. The following sections offer two examples.

### **Problem-solving and leadership**

A study by Eckerd College's Management Development Institute found a significant link between a person's ability to resolve conflict effectively and his or her perceived effectiveness as a leader and suitability for promotion.

The sample for the study consisted of 172 employees (90 male, 82 female) from five different types of organizations: a resort hotel, a manufacturing company, an insurance company and

two governmental agencies. Roughly half of these people were middle-level managers or higher in their organization; all of them participated in a program on conflict provided to their organization by the institute, part of a program focusing on workplace conflict. In brief, the results revealed a strong correlation between certain conflict resolution behaviours and perceived effectiveness as a leader and promotion potential. Employees who were perceived as good at creating solutions, expressing emotions and reaching out were considered more effective.

Destructive behaviours, on the other hand, such as winning at all costs, displaying anger, demeaning others, and retaliating were found to be the worst career advancement and leadership behaviours. (Avoidance behaviours were found to be particularly problematic for would-be negotiators because individuals who are uncomfortable with negotiating, or perceive themselves to be unskilled or ineffective in negotiating, often avoid conflict and thus fail to manage differences effectively.)

Of particular significance here is the finding that conflict resolution skills, notably negotiation skills, are an important aspect of leadership development training. The study concludes that if this key area is overlooked, it could have detrimental effects on a person's chances for promotion in an organization. On the other hand, if conflict resolution training is part of a larger leadership development program, it can produce favourable results for individual leaders as well as for their organizations.

### **Gender and negotiation**

There is a considerable body of research bearing on the impact of gender in negotiating, disputing and resolving differences; how conflict is expressed and felt; the values at play; and the effects of conflict and how it is dealt with. When we examine only one aspect of this research, we do a disservice to its scope and quality. Even so, a look at one aspect of the effects of gender may increase understanding,

improve negotiating "awareness" and practices, and provide incentives to pursue research more aggressively.

Some recent studies suggest that women are far less likely than men to initiate salary negotiations, and that they are often too willing to accept whatever is offered by their employers or prospective employers. According to Alan B. Krueger, the Benheim professor of economics and public affairs at Princeton University, "Mars doesn't mind negotiating and is confident he deserves more; Venus is satisfied with what she is offered, unsure of what she deserves and fearful of bargaining." Krueger says the provocative book *Women Don't Ask: Negotiation and the Gender Divide*, by Linda Babcock and Sara Laschever, supports his opinion in this regard. In their book, Babcock and Laschever reported that half of the men in their sample had started a negotiation within the previous two weeks, while half of the women had started their most recent negotiation more than four weeks earlier. A majority of the women didn't anticipate they would be negotiating again for another month, while half of the men expected to do so within a week. (In another survey, some 20% of women said they never negotiated).

In addition, women are far less likely to ask to negotiate the opening offer in a job discussion, and are more likely to concede quickly. The authors cite a study that found only 7% of women graduates of business school negotiate for a higher salary than the one initially offered by a potential employer, while 57% of male graduates did so. And what a difference this can make! Higher starting salaries for male graduates compared with female graduates lead to persistent inequities throughout careers. In short, Babcock and Laschever found that women tend not to recognize negotiating opportunities when they are there, and they don't create them either.

Institutional culture and practices combined with unspoken assumptions also tend to perpetuate inequalities between genders, leading to results that

are not only unfair, but also inefficient and economically unsound. Knowing *how* to negotiate and *feeling comfortable* about negotiating is not a luxury but a necessity.

Understanding the multiplicity of factors that may be present in negotiations and attempting to negotiate from an interest base is a challenging task. For example, the question of whether bargainers are affected by bias and prejudice on the part of those with whom they bargain may have gender, cultural, ethnic, historical and educational impacts on the process of negotiating and its results. The research and expertise being brought to the study of negotiations can, for example, enable women (and men) to understand what factors may be at play in their negotiations—such as an understanding of perceptions that may be held against them—and how to anticipate and manage them.

Most important, to my mind, is that gender research has produced alternative ways of thinking about negotiating. For too long, conflict theory focused on factors such as self-interest, rather than on relationships. In the meantime, gender research (and feminist theory) was considering alternative ways of thinking about conflict and the multiple meanings of "relationship," a pursuit that began a shift away from traditional power politics toward considerations of conflict resolution motivators such as identity and basic needs. In my view, this has led to a greater appreciation of the role of interests and relationships in understanding the dynamics of negotiation.

## Conclusion

Access to *information*, and effective use of information, produces a better negotiator. For example, gender differences often disappear when men and women are provided with the same information about "going rates" for jobs. Therefore, women (and men) should seek to find out how much comparable workers are paid, or what benefits and working arrangements others have negotiated. An

informed job seeker is in a better position to negotiate.

The literature also points out the importance of effective *framing* of negotiations in order to maximize understanding of interests (and positions) and advance optimal solutions. *Awareness of potential barriers* to effective negotiation (risk aversion, reactive devaluation, and so forth) improves one's chances for overcoming them; similarly, recognition of the need for *objective criteria* -standards, previous negotiated prices or salaries, sales records, competitors' pricing on goods and services, and so forth -helps to support one's position. Furthermore, it is important to have a sense of "*the realities*"-what you will do if you are unable to reach a negotiated solution. This can significantly intensify the commitment of all parties to negotiate.

*Relationships* (and the nature of the *remedy* or outcome you want) should influence the approach used in the negotiation. Effective relationships are more likely to lead to compliance with agreements and positively influence the quality and pace of their implementation. Communication styles are critical; *disclosure*, appropriately framed and timed, is crucial. If you do not disclose critical information, how can another party know what your interests are, let alone meet them? *Being co-operative, but firm and assertive*, is preferable in interest-based negotiations, and more likely to uncover "value" that produces gain for both parties.

New work will continue to add to the present collection of research on negotiation, and to our understanding of it. Put to practical use, in training and education programs, in businesses and corporations, for example, improved negotiating skills and outcomes should be the result: Achieving less than optimal results will occur less frequently, perhaps, and, by seeking to do so by discovering and attempting to meet the interests of parties engaged in negotiation, and recognizing the importance of relationships inherent in interest-based negotiation approaches, there may be other, unanticipated gains:

discernible improvements, locally, say, in morale in the workplace and, globally, in the climate of business transactions, and, too, in public arenas where policy affecting business is negotiated and determined. ■