

NEW APPROACHES IN NEGOTIATIONS

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Many years ago, Roger Fisher from Harvard Law School wrote a slim book called “Getting To Yes”. It is still the best-selling negotiation book in the world and it popularized the notion of Win-Win negotiations. When it first came out it initiated a whole wave of new thinking about the potential of negotiation and its utility beyond the stereotypical tactics of buying and selling a used car.

The *first wave* of this thinking focused on two key ideas – the Integrative or mutual gain dimension of negotiation and consequent potential for value creation from differences and conflict; and the importance of Relationships. Over time, this new way of thinking came to be known as Mutual Gains Theory.

The Integrative Concept challenged the assumption that negotiators are diametrically opposed to each other on all issues and that negotiations are purely competitive. Often negotiators value a range of issues quite differentially and if they can communicate well and trade across issues they can actually make each other better off. Typically, however, negotiators and managers fail to maximize the value or fully solve the problem through negotiation because they lack the aptitude and skills required to do it.

In his book “Manager As Negotiator”, James Sebenius from Harvard Business School described the value creating potential of negotiation and its critical role in fulfilling the manager’s task. It inspired HBS to make negotiation a compulsory subject for managers on the MBA. Drawing from Game Theory and Economics he also enumerated the sources for value creation through negotiation including differences in risk aversion, differences in time preferences, differences in relative valuations and differences in forecasts. His chapter titled “Creating Value” explores all the possible sources of mutual gain.

The other key idea to come from Roger Fisher was the importance of relationships in negotiation. Two of his famous maxims are “to separate the people from the problem” and “to go hard on the issues but soft on the people”. Fisher argued that relationships are important in negotiations because they often represent a large dimension of the value at play in a negotiation. Even when negotiations are largely transactional and there are no on-going relationships, being able to relate well and build trust during the negotiation is often essential if the negotiators or managers are to achieve its value maximizing potential.

Social Psychologists pioneered what I call the *second wave* of thinking about negotiation and they challenged the idea of separating the people from the problem. They argued that the people are often the major piece of the problem. In this second wave of thinking ideas of Bounded Rationality and the importance of Psychology and Emotions were stressed.

In their book “Negotiating Rationally”, Bazerman and Neale described the common biases and psychological traps that occur in negotiation – it was no coincidence that Neale had spent many years as a marriage counselor before entering academia! They argued that negotiators and managers are nowhere near as rational as they often believe, and that some form of bounded rationality should probably be the limit of our aspirations.

When I teach negotiations to smart managers, I use a series of simple exercises to illustrate how non rational are many of our decisions. For instance I will auction a \$20 note, offering to sell my \$20 to the highest bidder. I list a few simple rules, repeat the rules and then begin the auction. I invariably sell my \$20 note for more than \$20. A \$20 note clearly cannot be worth more than \$20, and yet I invariably sell my \$20 note for more than \$20. A lot more than pure logic occurs here, and it helps to explain common biases

around simultaneous and sequential thinking, escalation of commitment and intuitive neglect of the rules of engagement, to name just a few.

In their book “Difficult Conversations”, Stone Patton and Heen looked at the role of emotions and argued that earlier theories had concentrated too much on the Problem Solving Conversation which lay at the heart of good negotiation. However, they argued, negotiators and managers often do not get to have the problem solving conversation with each other because they fail to have two other types of conversation which regularly need to precede solving the problem. They described these as “The Feelings Conversation” and “The Identity Conversation”.

I believe that a *third wave* of thinking about negotiation is now emerging with two contrasting approaches. One set of ideas in this third wave involve Values, Ethics and Mindfulness. I believe that these new ideas illustrate how negotiation can play a role in a whole new approach to leadership.

Values are not the same as interests and preferences. They are much deeper and they require more than the traditional approaches to interest based negotiation. However, many of the intractable

problems that managers confront in organizations and in society often are value laden conflicts.

In “Social Interaction Systems: Theory and Measurement”, Robert Bales drew on fifty years study of groups to argue that value conflicts around trust, power and authority lie at the heart of the dynamics which occur in relationships, groups and organizations. Leadership of groups requires the ability to manage these polarizing value conflicts and some of the key methods available to the leader are dialogue, facilitation, mediation and coalition building. On my Advanced Negotiation Programs and my Leadership Programs I use a 360 degree feedback instrument developed by Bales, called SYMLOG, to coach managers in how to recognize and navigate the underlying value dynamics and conflicts which shape working relationships and performance in organizations.

David Gerzon, in “Leading Through Conflict: How Successful Leaders Transform Differences into Opportunities”, advocates a new model of leadership which he describes as Leader as Mediator. The need for Change and the Boundary Crossing which is occurring in organizations and society is exposing all sorts of conflicts and value contradictions which lie at the heart of the

challenge now facing leadership. The new art of leadership is not to solve the conflict superficially but to transform it by taking the stakeholders through a process of change which raises the dynamics of conflict to another level. Some of the key characteristics of this process are an integral vision of the whole, a systems approach to how all the parts interconnect, facilitation, dialogue, and innovation.

Erica Fox, lecturer at Harvard Law School and a mentee of Roger Fisher, argues for the transforming power of negotiation and mediation when leaders bring mindfulness or presence to the table. Mindfulness is seen as the ability to pay attention and be fully present without judgement. Many studies have shown that negotiators have an automatic tendency to infer benign motives for themselves, and malevolent motives on the other parties. Fox argues that mastery in negotiation and mediation is based on the skills of attunement to the intangible connection which exists between people. She draws on the research in other fields, such as Mindfulness Based Stress Reduction and Mindfulness Based Cognitive Therapy, and is researching its application to negotiation. Some of the methods being used to develop the habit of mindfulness in legal negotiators are relaxation, reflective dialogue and meditation. I am now employing some of these

methods in my own programs too, and have developed a new workshop in collaboration with Professor Amanda Sinclair at Melbourne Business School, called Mindful Leadership.

The contrasting ideas emerging now are from scholars and practitioners from Harvard Business School. They suggest that their other colleagues have exaggerated the potential of mutual gains in negotiations, and have underestimated the role of competition. They also argue that the most important events in negotiations, especially large, complex or multi-party ones, occur away from the table and often long before the parties ever meet. Their approach puts a lot of emphasis on strategic moves and procedural moves in negotiation, and how these can shape the outcome favourably for one or other of the parties. We teach this approach in our Advanced and Strategic Negotiation Program. The approaches being advocated by these scholars are quite sophisticated, complex and even exciting, but often are more useful in large commercial and diplomatic negotiations carried out by negotiation experts, rather than situations commonly being faced by managers and leaders.

