

Negotiation as a Post-Modern Process

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Editors' Note: What do negotiation teachers think negotiation is all about? Fox says it's time for us all to adapt to a wide range of phenomena which are not yet on the minds of negotiators or their teachers. These include globalization, better understanding of the intractability of some conflicts, and transfer of knowledge from very specific contexts such as hostage negotiation into general use, among others. Together they demonstrate that even though we don't recognize it, we have an ideology, one that warrants rethinking from front to back.

Conventional pedagogy treats negotiation as a strategic and instrumental process. With few exceptions, students are currently taught that the negotiator's central challenge is learning how to develop and enact rational strategies to claim and/or create maximum value that satisfy the negotiator's (or her principal's) self-interest. This way of thinking opens a world of possibilities for developing diagnostic, analytic and predictive tools for negotiators. We study brain functions (Tom et al. 2007), cognition (Birke and Fox 1999), behavioral and games theories (Bolt and Houba 2002), and more, all geared toward a better understanding of our own internal thought processes and those of our counterparts; how to "game" the process of interaction between negotiators; and how to achieve better outcomes for ourselves and our clients. This way of thinking also provides a useful framework for how to organize our negotiation teaching. First generation negotiation pedagogy is built on this conceptual framework.

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After spending four days with some of the best theorists and teachers in the negotiation field,¹ I am left with a sense of awe at how much we know. I am also left with the nagging feeling that something quite important is missing. Much of our discussion centered on how to extend our existing canon and how to refine the teaching delivery of this body of knowledge. Yet, around the edges, I heard other voices suggesting that recent developments in our field, among others, confirm what some negotiation scholars have argued for many years: our frame for approaching the study and teaching of negotiation is overly limited.² I agree with this critique and suggest, using the language of our own canon, that we are victims of our own inattentive blindness (Simons and Chabris 1999). I further suggest that second generation negotiation theory and teaching must recognize this limitation and expand our frame to incorporate additional paradigms for understanding people and how they interact.

Specifically, our experience on the ground increasingly shows the importance of looking beyond needs and interests to more fully understand the ways negotiators make meaning from their social contexts and through their interactions. Further, the very way we conceptualize the negotiation “process” limits what we are able to learn about it. A different conception of the process may open new avenues for negotiation research and teaching. I take these suggestions up in turn.

Our Experience On the Ground with Negotiation

Negotiators have always worked in a wide range of settings. However, in recent years, we have extended our scholarship to look more intentionally at negotiation situations that challenge existing assumptions and require new ways of approaching our practice. Three phenomena stand out:

Globalization

Merchants and explorers have traveled and negotiated across the globe for as long as we have recorded history (Chamoun-Nicolás 2007). However, ease of travel, the advent of the internet, and a truly transnational labor-force and marketplace, not to mention other recent economic and social developments, have made global business and communication commonplace, if not downright mundane. Where it would have been rare even twenty years ago, it is now uneventful when lawyers or businesspeople in Minneapolis routinely negotiate with counterparts in Bangalore, Beijing, Caracas, Jakarta, Johannesburg, Moscow, Sydney or Zurich. “Distance” has lost its geographic meaning. At the same time, as our geographic world be-

comes ever smaller, the complexity of our differences and the “distance” between our social worlds becomes ever more evident.

These differences are not lost on negotiation scholars. In recent years, a great deal of study has focused on the cultural dimension of negotiation (Faure and Rubin 1993; Menkel-Meadow 1996; Avruch 1998; Elgstrom 1999; Weiss 1999; Brett 2001; Avruch 2004), not to mention gender and other forms of group membership (Gilligan 1982; Kolb and Putnam 1997; Kolb and Williams 2000). We look at a range of cultural factors such as power distance, individualism, masculinity, uncertainty avoidance and long term orientation, among others, to understand how to negotiate within and between different cultures. We have even developed charts to help us prepare to negotiate with counterparts from other countries (Salacuse 1998). All of these factors help us prepare for many of the different negotiation situations we may encounter.

While understanding culture is an essential part of practicing negotiation in a global environment, I suggest that we need to go even farther. For example, “cultural” difference can exist *within* communities as well as *between* communities. Moreover, studying “cultural” factors in negotiation (whether between or within identified communities) can lead to a mechanistic understanding of our differences. It can lull us into a false sense that we now “get” where different negotiators “are coming from,” leading to a superficial and, perhaps, mistaken sense of the “other.” What we need is a more sophisticated understanding of individual and collective identity and their relation to the negotiation process.

Michelle LeBaron, among others, has developed important insights into the deeper nature of culture, identity and how they inform our understanding of conflict. In her book *Bridging Cultural Conflicts*, she offers a thoughtful framework for understanding ourselves and how we relate to one another across cultural differences (LeBaron 2003). As I suggest below, negotiating in our complex world requires this type of shift in orientation to differences and to what we now call “culture.”

International Conflict

The changing dynamics of political and social relations has also required new ways of thinking about how we negotiate. Until the end of the Cold War, social conflicts were typically understood in terms of state actors (such as the United States, the former Soviet Union, China, and so on). Today, social conflicts may involve amorphous groups that disregard or transcend political boundaries just as easily as they involve state actors themselves. Moreover, such conflicts may involve complex and shifting identity groups that challenge the very

legitimacy of those state actors (Rasmussen 1997). The ever-changing nature of social conflict may limit the effectiveness of the negotiation process, at least as traditionally conceived. As Diana Chigas writes,

Intractable conflicts tend to involve basic human needs and values that parties experience as critical to their survival and, as a consequence, as nonnegotiable....While these issues of identity, survival, and fears of "other" are often the product of the escalation of conflict and are unrelated to the issues that initially triggered the conflict, they are critical to the resolution of the conflict. Negotiation or compromise as a path to resolution becomes impossible under these circumstances (Chigas 2005: 124).

The limitations Diana Chigas describes reflect the complex nature of social conflict. They may also reflect our evolving understanding of social conflict. Until recently, the dominant framework for peace work was informed by a "realist" view of international relations and the role of diplomatic and other official representatives in addressing conflict among nation-states (Rasmussen 1997). However, in recent years, unofficial interactions (referred to as "Track Two," "Track Three" and "Multi-track" diplomacy) have evolved as another effective peace-making and peace-building tool. These unofficial interactions bring together retired diplomats, local civic or business leaders, educators, individual citizens and citizen groups from across conflict divides (Chigas 2005).

Where formal diplomatic interactions may require more traditional negotiation,³ unofficial interactions allow a wide range of ways to interact. Specifically, Track Two and Track Three peace work increases opportunities for genuine dialogue between conflicting communities (Chigas 2005; McDonald 2006). This emerging form of interaction underscores the qualitative difference between traditional negotiation (which is so central to our "first generation" thinking) and a more dialogic form of interaction (which I suggest must be a part of "second generation" negotiation theory-development and teaching). This shift from the metaphor of "negotiation" to "dialogue" is significant. I will return to it later.

Crisis and Hostage Negotiation

In addition to learning from globalization and international or social conflict, our field is also learning a great deal from scholars and practitioners who must negotiate in the midst of crisis. Such situations include negotiating with hostage-takers, in barricade situations

and in suicide attempts, among others (Lanceley 2003; Strentz 2006). These situations confront negotiators, in very stark and often intimate ways, with the threat of imminent violence, with very high emotion and with reduced rationality. In recent years, a growing body of scholarship has developed to better understand, and inform, negotiators who work in such situations (see Volpe and Cambria, *Negotiation Nimbleness*, in this volume).

At least one scholar argues that crisis situations can confront negotiators with yet another, more confounding and fundamental, challenge: a conflict of worldviews (Docherty 2001). In such situations, a negotiator's work goes well beyond strategies for lowering emotion, bringing order to chaotic situations and finding common ground. It can involve negotiating reality itself.

In her text *Learning Lessons From Waco: When the Parties Bring Their Gods to the Negotiation Table*, Jayne Seminare Docherty provides a fascinating and cogent analysis of the Branch Davidian crisis negotiation that ended so tragically (Docherty 2001).⁴ She argues that a conventional understanding of the negotiation process does not reveal the deeper challenges that ultimately thwarted successful negotiations between the U.S. government and the Branch Davidian community. She argues that the conflict involved differences in worldview (or, as she states, "worldviewing")⁵ that the negotiators neither understood nor addressed. These differences made a conventional negotiation all but impossible and, in this case, may have contributed, if not led, to disaster.

Docherty's focus on worldview is instructive. It complements the work of scholars like Kevin Avruch and Michelle LeBaron and extends our cultural research in the negotiation field to suggest another dimension worth deeper examination.⁶ Docherty describes "worldview" as follows:

A worldview is not a thing. The term *worldview* denotes a concept that attempts to articulate the consequences of human activities that are individual as well as collective, psychological as well as social...*Worldview* is not only a noun attempting to capture actions; it is also a concept that challenges many of the defining categories of modern life. *Worldviewing* is a process that defies the contemporary separation of individual and social phenomena. Hence, many scholars – including psychologists, anthropologists, sociologists, political scientists, and religious study experts – study the ongoing processes of worldview formation, maintenance, and revision (Docherty 2001: 50-51).

I suggest that fundamentally different worldviews exist in more negotiation situations than we might imagine. W. Barnett Pearce and Stephen W. Littlejohn describe a form of conflict very similar to Docherty's worldview conflict. In their book *Moral Conflict: When Social Worlds Collide*, Pearce and Littlejohn describe a type of conflict that can arise when groups (or members of different groups) have incommensurate "moral orders" (Pearce and Littlejohn 1997). By this, they mean groups who understand their experiences and make judgments about what are proper or improper actions in profoundly different ways. They provide a broad range of examples to illustrate where this form of moral conflict can arise, none of which refer to crisis situations.

While perhaps less dramatic, what Docherty has learned from crisis negotiation is not unlike subtler versions of what negotiators might face in seemingly "ordinary" negotiation situations. Particularly where negotiators increasingly work in a diverse and global environment, they are increasingly likely to encounter counterparts who understand and interpret their world in profoundly different, potentially incommensurate – and often invisible – ways. Even when working across a mahogany conference table with a member of our same given profession, we should not assume that all negotiators think, or otherwise organize their social worlds, the way we do.

So what does our growing experience with globalization, social conflict and crisis negotiation reveal? All three phenomena point to the centrality of worldview and "meaning-making" in the negotiator's experience, and all argue for further scholarship and teaching in this area. As Docherty states,

In order to delineate any worldview (including our own), we need to know how the person or group under scrutiny answers the following questions[:] What is real or true (Ontology)? How is "the real" organized (Logic)? What is valuable or important (Axiology)? How do we know about what is (Epistemology)? How should I or we act (Ethics)? (Docherty 2001: 51).

This focus goes beyond what first generation negotiation scholarship generally considers. Ways to understand worldview and meaning-making better should be made part of our second generation scholarship.

A Second Generation Paradigm for Studying “Negotiation”

A second nagging feeling arose during our four day conference: First generation negotiation scholarship, while varied, rigorous and deeply insightful, seems to emerge primarily from a single ideological base. Put differently, despite the multitude of worldviews we experience in practice, I sensed that our knowledge about the field arises, primarily and ironically, from a single worldview. Several other contributions to this volume also discuss this, so my view is not unique. (See for example LeBaron and Patera, *Reflective Practice; Gold, Negotiating Cultural Baggage*), as well as other pieces in the companion special issue of *Negotiation Journal*.⁷

Before I address this notion specifically, I want to step away from negotiation for a moment and discuss knowledge, *qua knowledge*, because it is here, I suggest, that we will find another rich arena for second generation negotiation research and teaching.

In their book, *The Theory Toolbox*, Jeffrey Nealon and Susan Searls Giroux make the following argument about knowledge:

For there to be any knowledge at all, there has to be ideology in this sense; there has to be some preexisting agreement concerning what will *count* as knowledge, or what criteria will be used to judge new or developing knowledges....Ideology is that group of intertwining beliefs that makes possible certain kinds of cultural consensus or knowledge, but precisely because it is everywhere and nowhere, ideology tends to disappear – so to speak – “into” the things that it makes possible. Paradoxically, ideology is the metaphorical “airy abstraction” that is simultaneously a kind of concrete “common sense” (Nealon and Giroux 2003: 86-87) [emphasis original].

Nealon and Giroux make two points that are relevant to negotiation knowledge development: First, as is true with *any* knowledge about *any* field, our knowledge about negotiation is based on ideological factors that pre-determine what will *count* as knowledge and what will be used to judge new and developing knowledge in the negotiation field. Thomas S. Kuhn articulated a similar argument in his book *The Structure of Scientific Revolutions* (Kuhn 1996). Second, our current ideology toward negotiation may have so “disappeared” into our common sense that we are not aware of how it shapes the very questions we ask and the answers that we would value.⁸ To the extent that these insights are correct, they limit our ability to truly ex-

pand our negotiation knowledge, let alone to make fundamental changes to our negotiation paradigm.⁹

So what is a scholar to do? One option is to examine the very ideology on which our scholarship stands and to explore other, different, paradigms for understanding negotiation. This does not mean abandoning our existing scholarship. Rather, it means becoming more self-aware about the assumptions that underlie our scholarship, and examining fresh and truly new questions that are based on different assumptions about what counts as knowledge in our field.

Our Current Ideology

As I mention at the beginning of my essay, current negotiation theory is primarily understood from an individualist and rational point of view. This orientation pre-supposes that knowledge about negotiation is best found within the mind and heart of the negotiators themselves, or can be learned by behavioral observation: how we think; psychological traps and barriers; the nature of influence; and so on. While this perspective on negotiation is invaluable, it is bound by the underlying belief system of which it is a part. It constrains development of new knowledge.

A Different Approach to Negotiation Scholarship

The dispute resolution field is increasingly embracing new and cross-disciplinary perspectives to understanding conflict. Other essays in this volume exemplify this growing diversity (see Bernard, *Finding Common Ground*; Brown, *Strategies for Addressing Partisan Perceptions*; Guthrie, *I'm Curious*; Jones, *Designing Heuristics*). This broadening focus is both important and welcome. At the same time, as I have argued elsewhere, our field seems not to have fully engaged with scholarship that stands outside our common sense, individualist, ideology (Fox 2006). Specifically, we are only beginning to examine conflict and negotiation from the perspective that I refer to as post-modern scholarship.¹⁰ I suggest it is precisely here that fundamentally new ways of thinking about negotiation can flourish. By stepping outside the current paradigm, we may find new and interesting insights that were previously invisible.

So, what do I mean by a "post-modern" approach to understanding negotiation? I refer to an orientation toward scholarship that reflects an emergent and dynamic sense of knowledge and how we make, or "co-create," meaning. Two forms of post-modern thought come to mind: The first is social constructionism, which posits that meaning is embedded in society through patterns of social interaction (Berger and Luckman 1966). As I mention above,

Pearce and Littlejohn describe this as a “moral order” or “the theory by which a group understands its experience and makes judgments about proper and improper actions” (Pearce and Littlejohn 1997: 51). Walter Truitt Anderson describes this form of post-modern thought in contrast to earlier systems of knowledge:

I’d sum it up this way: People in traditional, pre-modern societies had an experience of universality, but no concept of it. They could get through their days and lives without encountering other people with entirely different world views – and consequently didn’t have to worry a lot about how to deal with pluralism. People in modern civilization have had a concept of universality...but no experience of it....Now, in the post-modern era, the very concept of universality is, as the deconstructionists say, ‘put into question’....It begins to look like we’re all going to have to get used to a world of multiple realities (Anderson 1995: 6).

I think of this as meaning-making at a macro-level. This conception of meaning-making includes an understanding of culture, as traditionally studied. However, it also goes further to examine the complex and dynamic ways in which social groups make meaning together and the consequences of this “construction” of meaning in the face of conflict. LeBaron also addresses this deeper phenomenon in her work on bridging cultural conflicts. We need to more fully engage with the implications of social constructionist theories on our understanding of negotiation.

A second form of post-modern thought includes what I refer to as relational or dialogic theories, which focus on the ways we co-create meaning through our specific interpersonal and social interactions (Gergen, Schrader, and Gergen 2007; Kellett 2007; Van Leeuwen 2008). I think of this as meaning-making at a micro-level. From this perspective, individual utterances, by themselves, do not reveal meaning. Rather, the potential for meaning is realized through a “supplementary action” (Gergen, Schrader, and Gergen 2009: 96). In other words, meaning is “co-constructed” or “co-created” through the *process* of communication interaction *as it takes place* between people and not through the words themselves. Joseph Folger, Marshall Poole, and Randall Stutman refer to this form of interaction in conflict as “moves and counter-moves” (Folger, Poole, and Stutman 2005: 27). McNamee and Gergen refer to this form of interaction as a “discourse of interdependence” (McNamee and Gergen 1999: 36). While this may seem like active listening or even looping as described by Gary Friedman and Jack Himmelstein (Friedman and

Himmelstein 2008), it is different. Relational theory suggests that we do not clarify existing meaning through interaction. Rather, we co-create new meaning as the interaction unfolds.

Jayne Seminare Docherty alludes to this post-modern paradigm when she describes the difference between “worldview” as a concept and “worldviewing” as the ongoing processes of worldview formation, maintenance and revision (Docherty 2001: 51). Other scholars similarly suggest that knowledge and meaning are co-created, and continually re-created, through the process of social experience and interaction. Scholars like Joyce Fletcher (Fletcher 1999), Kenneth Gergen (Gergen 2001a; 2001b), McNamee and Gergen (McNamee and Gergen 1999), Pearce and Littlejohn (Pearce and Littlejohn 1997), John Winslade and Gerald Monk (Winslade and Monk 2000), Robert A. Baruch Bush and Joseph P. Folger (Bush and Folger 2005), among others, suggest that knowledge is not something we seek or discover, as if it exists independently of us. Rather, knowledge is something we co-create – and continually re-create – in social contexts. In other words, meaning-making, and as a consequence, the negotiation process, is dialogic.¹¹

This post-modern view re-orientes how we examine negotiation. Instead of assuming we can plan, “game” and develop strategic road-maps for successful negotiation, this new view shifts our focus to examining the language, interactions and meaning that emerge organically as the negotiation process unfolds. It also shifts our focus to the deeper and more complex realm of worldview – and world-viewing. Put differently, in addition to studying negotiators themselves, we can find rich insights by focusing our attention to the social worlds in which they operate, as well as “the space between” negotiators, where new meaning is made and remade. Such a fresh look at negotiation can bring new, and fundamentally different, insights into our understanding of this process of human interaction.

A Post-Modern Approach to Negotiation Pedagogy

In the same way that post-modern thinking can inform negotiation research, so, too, can it inform negotiation pedagogy. For example, first generation negotiation pedagogy generally includes the study of steps or stages for moving through the negotiation process (Korobkin 2002). This approach to teaching negotiation makes perfect sense from within our current paradigm, since we conceptualize the very process as rational and strategic. However, if we believe that negotiation is a dynamic and emergent process where every communication move potentially changes everything that follows, such a prescriptive approach to teaching becomes nonsensical.

What we need instead is a pedagogy that is congruent with a post-modern conception of the negotiation process itself. If we believe that negotiation is a dialogic process where negotiation coun-

terparts co-create meaning in every interaction, then we need to identify guiding principles more than process structures, to help students develop competence in the process. For example, graduate schools are increasingly teaching courses on the theory and practice of restorative justice. Restorative justice also has social constructionist and relational roots and might be a place to look for pedagogical insights (Vogel 2007). A colleague of mine, Howard Vogel, teaches his law school class in restorative justice by maintaining the principles of the restorative justice “circle process.”¹² Students report that their experience of learning through this conversational process is unique and powerful since they are able to experience, and reflect upon, the “making of meaning” as the class itself unfolds.

Similarly, transformative mediation principles have relational roots (Bush and Folger 2005). In transformative training, mediators learn to focus on the quality of human interaction as it unfolds in conflict (Folger and Bush 2001). One way this is achieved is by focusing on the quality of interaction in the training room itself. As Robert Stains writes, “[i]n the same way that the person of the mediator is critical to transformative mediation, the manner in which the trainer relates to others in the [training] room is crucial to the creation and maintenance of a learning environment with transformative features” (Stains 2001: 163). Like the experience of students learning restorative justice processes, students in transformative mediation courses report a different quality of learning that is congruent with transformative practice itself.

While the “circle process” or specific mediation training practices might not fit a negotiation class setting, other conversational or dialogic processes might sufficiently change the dynamics of the classroom so as to allow students to experience and recognize how meaning is made, and remade, through the process of interaction. Further examination of the connection between social constructionist and relational (post-modern) principles and pedagogy may reveal novel and effective new ways to understand and teach negotiation.

Conclusion

Current negotiation thinking is limited by its own paradigm. Second generation negotiation theory and pedagogy should take these lessons to heart and push beyond the bounds of our current paradigm to examine negotiation in new ways. To use a computer metaphor, if we are willing to embrace a paradigm shift in how we conceptualize negotiation, we may find that the next generation of negotiation teaching and scholarship, rather than being version 1.7 or 1.8, will truly be version 2.0.

Notes

¹ I refer here to the “Second Generation Global Negotiation Education” conference held in Rome, Italy from May 27-30, 2008.

² For example, over a decade ago, Linda Putnam directly challenged these core assumptions and called on negotiation theorists to consider alternate approaches to examining the negotiation process (Putnam 1994).

³ I suggest, however, that even formal diplomatic interactions can be understood in important new ways by breaking with traditional approaches to negotiation and applying new paradigms for analysis.

⁴ Jayne Seminare Docherty was also a participant in the May, 2008 Rome conference.

⁵ Docherty makes an important distinction between “worldviews” as a static reference, and “worldviewing” or “worldmaking” as terms that reflect the dynamic and ever-emergent process of creating – some say co-creating – worldviews (Docherty 2001: 16, 50). Her reference to the emergent nature of meaning-making is significant. I discuss this in greater detail in my discussion of a paradigm for second generation negotiation.

⁶ Both Kevin Avruch and Michelle LeBaron also participated in the May, 2008 Rome conference.

⁷ For example, Phyllis Bernard, author of the lead-off article in the *Negotiation Journal* special issue, argues passionately for a move away from the Western worldview characterizing first generation training (“linear, rational, fact-oriented”), and toward training that makes room for “soul” (which for purposes of her article she defines as encompassing three components: “emotion and subjectivity, deep narratives rooted in faith and ethnic traditions, and cultural intelligence”) (Bernard 2009: 147-159).

⁸ The notion of “disappearing” is a particularly interesting one. In a slightly different context, Joyce Fletcher argues that there are particular types of practices that disappear – or as she argues, are “disappeared” so as to be rendered invisible (Fletcher 1999).

⁹ Joseph Folger and Robert Baruch Bush also address the question of ideology in the context of meditation practice. They suggest that the ideology that informs a mediator’s orientation to conflict shapes what the mediator sees and considers relevant for intervention (Folger and Bush 1994). This is the same argument articulated by Jeffrey Nealon and Susan Giroux (Nealon and Giroux 2003).

¹⁰ Carrie Menkel-Meadow also uses the term “post-modern” in her critique of the current adversary system (Menkel-Meadow 1996).

¹¹ Peter M. Kellett also views negotiation as a dialogic process. Drawing on research in narrative analysis and interpretive technique, Kellett has proposed a model of dialogic negotiation that warrants further examination (Kellett 2007).

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