

The Negotiations Process: What the Executives and I Learned

This past month, I had the great pleasure of teaching the CIMBA ***Negotiation Strategies and Techniques Workshop*** (*And What it Means in Both Your Personal and Professional Lives*) in our Executive Certificate Program, which included participants from both this year and last year's classes. It was a powerful learning opportunity and experience for me as the last time I taught negotiations was more than 20 years ago. In the interim, we had turned the class over to Prof. George Siedel, a recognized negotiations expert, who took over the responsibilities for teaching the class and became an important member of the CIMBA faculty.

The class gave me the opportunity to explore and confirm the many thoughts and ideas we have had about how negotiations skills and attributes fit and play an important role in ***CIMBA's Personal Development System***. Some years ago, when Chris Ancona (MBA Class of 2011) was managing the ***CIMBA Neuroleadership Labs*** and developing its technology foundation, he and I had many long and detailed conversations about how negotiations skills reached far beyond the "at the table" notion that most people associate with the word "negotiations." Consistent with those conversations, the lessons learned teaching the class were many, providing insights into how the process of negotiations has moved beyond the "dirty tricks" training of the past to more firmly embrace the important behavioral side of the human interaction that forms the basis of any negotiation. Viewed in this way, it is relatively easy to see how negotiations skills and attributes are integral to conflict management, working with difficult people, difficult conversations, working in teams, giving feedback, and, perhaps most importantly, in our roles as leaders. They all share one very fundamental component: They are all ***social events*** with success therein defined by the effectiveness of the ***interpersonal, or social skills*** of the parties involved. Given the extent to which these topics in one form or another intrude into our daily lives, we are convinced they are the most fundamental skills and attributes for career (and life) success. It is this collection of day-to-day activities to which I will refer to as being "negotiations broadly defined."

In sharing my learning experience, let me give you a brief history of the negotiation process as I see it. While much of the core content components of negotiations have remained unsurprisingly the same, the teaching emphasis has changed considerably, in large measure due to the advent of new technologies in very diverse fields. Along with that change, our ability to build strong negotiation skills has also changed, and significantly for the better. Prior to the late 80s, the behavioral components inherent in negotiations were recognized, but teaching was limited to stating the importance of controlling your behavior and defending against the behavior of the other side. Emphasis was placed on negotiation tactics to assist in dealing with difficult personality types, bluffing, stonewalling, good guy/ bad guy employees, "invisible" partners, and others "emotional" issues. I carried copies of PowerPoint slides into the class from negotiating classes I had taught from that time period to illustrate how much emphasis was placed then on the "game" of negotiations in the form of such tactics as the "price pinch," information auction, the "what if", deadlocks, and the "desert" tactic, among several others. As odd as it seems to me now upon reflection, there was relatively little instruction or emphasis placed on the legal aspects; for example, very little effort, if any, was placed into addressing the basic question of whether the deal negotiated formed a contract enforceable by law. Much of

the negotiation process being trained seemingly followed the social science research paradigm of *stimulus-response*; if the other side behaves this way, than do this in response. There was little regard as to “why” people (both ourselves and the other side) might behave the way they do and how we might address the situation from that perspective.

As with most other business functions, technological development has played a significant, often disruptive, role. Particularly noteworthy is the advent of the affordable fax machine in the 80s, which imposed important new operating conditions upon the process. With that development, the legal aspects in negotiations took on a more fundamental, prominent role, led by the question: Is a deal, negotiated by the parties at a distance and signed electronically, an agreement enforceable by the law when the law states that the agreement must have the original signatures of the parties to be enforceable? To that point, much of international business was undertaken by traders, who brought buyers and sellers together by essentially keeping them apart. Information was scarce, and communications were expensive (An international telephone call cost more than \$8.00 per minute and the line had to be booked days in advance at the post office; Nevertheless, the scarcity of information still imposed the additional question of “Who do I call?”). At that time, I had a company engaged in this information arbitrage practice. Like some nearly 600 others, we had a large trading account with Banca del Gottardo in Lugano, Switzerland.

During that time, I was making several trips a year to Hong Kong, and frequently passed through Tokyo on my way. I had befriended an interesting executive with Sumitomo, who in one of those visits in the very early 80s, took me to the top floor of the Sumitomo building in Tokyo. He told me that he had something interesting to show me and walked me to one of the far corners on the floor. Aside from the stunning view it provided of Tokyo, he pointed to a relatively small machine and asked me if I were interested in the new sailboat a friend of his who lived in Argentina was considering buying. I found the question to be quite odd, but he said that his friend could send us a picture if I was interested. Naively and out of politeness, I fell for his “trap” and pointed out that it would take several days if not weeks in making its way from Argentina to Tokyo. He replied, “No, I can ask him to send us a picture right now.” He typed in a message to that effect, hit send, and a very short time later a black and white picture of a sailboat rolled out of the machine on thermal paper. I thought it was some kind of a joke, but he assured me that in fact he was able to communicate instantly with his friend in Argentina. Importantly, the message took a matter of seconds, meaning that it cost essentially nothing. Compounding the situation, he pointed out that it could be connected to an ordinary telephone line. While it is completely ordinary now, it was a miracle to me back then. Over dinner that evening, we explored the possibilities, and it became clear to me that my trading days of being an “agent” between distant buyers and sellers were over. Within a year, the number of trading accounts with Gottardo fell to just 10.

Global business exploded through the 80s, and international best practices evolved to support it. Communications improved dramatically and became much more affordable. International travel became common, and not restricted to the wealthy. Legal issues moved to the forefront in business negotiations, as technology brought people together more frequently and in greater numbers. Although it still has significant influence in several cultures today, the most dramatic change took place in the importance of relationship and relationship building, both in international and domestic business. In my deep review of Professor Siedel's materials, the

biggest change in negotiation practice from the pre-80s era was in the breadth and depth of the legal components that had become integral to the practice relative to the way I had taught it previously. A basic understanding of the differences in legal systems, principal/agency law, elements of a contract (both foreign and domestic), and alternative dispute resolution processes had become important ingredients to the success of a negotiator. Those legal components were nowhere to be found in negotiation trainings prior to the advent of the fax machine.

Most of the discussions that I had with Chris Ancona in the early 2010s focused on the integration of neuroscience research into the practice of negotiation, but, again, negotiation defined more broadly than its typical *“at the table”* concept. We tested a variety of technologies in classroom settings and became convinced of their validity and usefulness. In the ensuing years, we had a number of important conversations with Prof. Siedel, and he made several additions to his materials reflective of his growing interest and appreciation for the direction that neuroscience was clearly going to take the practice of negotiation. Unfortunately, both the time required to make use of that technology and the COVID conditions we are currently experiencing caused sufficient constraints on making use of technology in the classroom this time. **Next time ...**

But I was able to bring relevant and applicable neuroscience research to the classroom, moving the **Workshop** away from the social science stimulus-response perspective of the past to a far broader, more encompassing, behavioral perspective. While behavioral research scientists have recognized the role psychological traps and tools play in the negotiation process, we have only recently begun to see the breadth of the connection to neuroscience and its emphasis on the brain and behavior. In fact, much of this “new direction” in negotiation science, if you will, is reflected in the most recognized mass media text on negotiations, *“Getting to Yes.”* There, for example, they no longer discuss the “dirty tricks” countermeasures of the “Chester Karrass” approaches to negotiation workshops of the past, but rather point out the importance of expressly raising the question “Why” to the other side when it exhibits such modes of behavior. This is an important step in training, but it, too, must first answer the questions “why” and “how” in understanding the motivation for that behavior as an initial matter.

To this end, the course introduction looked at neuroscience research and its relevance to negotiations, again broadly defined. We considered the relevance of the brain’s System 1 tendencies to build explanatory narratives on the basis of limited information, often biased to the negative. In the productive use of such tendencies, we considered the importance of storytelling in our ability to influence the other side. We explained how the brain develops its sense of fear, anxiety, and distress, making it difficult to ask the hard questions that often underlie the success of negotiations. We looked at limitations on the brain’s working memory and how that limitation makes it difficult to both listen to the other side and formulate a response at the same time. We both looked at and experienced the influence of non-conscious thinking biases, and how they form the basis of the psychological traps and tools that have characterized much of negotiation research over the past two decades. We looked at how the brain engages in social discourse, interprets incoming sensory information, constructs a narrative, and then acts upon that narrative, often to our detriment – all of which can very often be overcome by simply asking the other side the confirming question “Why” if we overcome our fears to do so. Importantly, we recognized that while practicing something for

10,000 hours can certainly create the habits of an expert, practicing something by doing it poorly for 10,000 hours may not be the expertise we had in mind. And finally, from a neuroscience perspective we considered the importance of articulating our basic beliefs and values and coupling them with good mental and physical well-being measures to deliver top cognitive performance.

The final point of learning for me was the importance of including a general discussion on how to approach virtual negotiations and the impact of social media on the negotiation process. None of these existed two decades ago and they were not present and Prof. Siedel's last materials from just three years ago, clearly reflective of how rapidly, decisively, and deeply technology is intruding into work lives. In my effort to stay as true as possible to the core foundations of negotiation practice, we initially decided to exclude these topics due to the constraints of time. However, on later reflection we decided they were far too important to leave uncovered. After internal discussions, we sent detailed slides to all participants on these two important new aspects of negotiation practice. The extent to which negotiations have been impacted by technology beginning with the advent of the fax machine to the disruptive intrusion of social media in our daily lives can simply not be ignored.

As an initial matter, there is little doubt that technology has generally made our lives better. However, that same technology has been a disruptive force, imposing many important changes on society that we are only now beginning to grasp and appreciate. The impact on negotiations (again, broadly defined) has had many of the same pluses and minuses. As such, we can continue to play by the "old" rules, or adapt and make the best use of the technology to improve the productivity of our day-to-day lives without forgoing many of our social efficiencies. To date, I would argue we are making good progress on the former and failing miserably on the latter. Clearly, those willing and able to adapt and adjust most quickly will have a distinct competitive advantage.

As we compared virtual against in-person negotiations, we identified several concerns and considered how to address them. Perhaps **the biggest loss in virtual negotiations is the "non-linear" conversations that spontaneously erupt during in-person negotiations**. Those non-linear conversations are far more difficult in virtual environments. At this early stage in observing this concern, we can only speculate how much creativity is being lost. Secondly, **we seem to be much less resilient in virtual environments**, finding it easier to bail out when we feel fatigue setting in. With this in mind, **it may be wise to accept that virtual negotiations are less productive than in-person negotiations** and schedule extra meetings right from the beginning. All of us have experienced the irritation of attempting to schedule the next meeting at the very end of the current one.

- From a procedural standpoint, **it may be beneficial to send the other side both an agenda and a proposal** (Particularly if you intend on requesting something new or novel from the other side). The agenda will assist in maintaining the direction of the negotiations, providing some assurance that important topics will get addressed. Not surprisingly, "old school" negotiators were resistant to providing a proposal in advance - with many, unfortunately, still clinging to the "power of surprise in negotiations" line of thinking. Yet, despite this initial resistance, its value was recognized with the caveat that we may want to consider how much of the proposal we want to share and by how much

time in advance we want to send it. Nearly everyone agreed that setting “Zoom” expectations up front was an important opening step, explicitly making note of that fact that behaviors can easily be misinterpreted in this environment with negative narratives unproductively created (Are they listening?; Why do they continue to talk over us?; and many others both large and small). *Establishing an open communication environment where Zoom's shortcomings are mutually recognized in advance was considered a workable and advisable solution.*

- **In closing, we also recognized that social media can exert considerable influence** (both positively and negatively) **by parties “away from the table,” significantly impacting negotiations “at the table.”** Importantly, it was also noted that in today’s environment if you ignore the risks of social media influence, you do so at your peril. In conventional, *at the table*, negotiating, the parties typically negotiate in secret, away from the public view. Although the negotiating team can listen to others *away from the table*, those “others” are largely within the team's control, such as direct managers, division heads, the CEO, and company board members from within the company, and legal, financial, or compliance advisors from outside the company.

Now, however, negotiations are far more subject to social media, *away from the table*, influences, that are largely beyond the negotiation team's immediate control. **Social media tools and databases have made a wide variety of personal data readily available, providing negotiators with a deeper understanding of their counterparts’ true interests, biases, perceptions, and interpersonal preferences.** While ethical and legal issues in the past were largely focused on lying, manipulative persuasion, or coercive moves within the confines of the negotiation itself, social media can now be used to shape powerful public opinion that can exert considerable pressure on the parties *at the table*. The kind of information that is readily available, or that can be readily created, has thus far exceeded the law's ability to keep pace, with a rapidly expanding set of tactics providing notable potential for malfeasance and harm from misuse. While falsehoods can certainly be addressed in most cases through legal actions, the reputational effects are far more durable and difficult to overcome; a social media rebuttal after the fact may have limited effect. From this perspective, it is clearly important to both be vigilant of your social media environment and to move quickly when “attacked.”

- Strategically speaking, **managing the social media environment can provide significant benefits.** Preparation for negotiations remains the most important factor influencing the success of those negotiations. Through social media we can reliably learn about the **full** set of parties who may be relevant to the negotiation - including those *away from the table*. Through a strategy of vigilance, we can learn how to frame our message to influence important parties, mobilize those parties, and to neutralize the message of the other side. From the standpoint of “an ounce of prevention is worth a pound of cure,” it is becoming increasingly important to be mindful of the kind of information you were putting out on social media sites. There is every reason to believe that with today's powerful social media tools and techniques the more information about the negotiating team out there, the greater is the probability that the other side will capture it and take advantage of it. In this sense, it is better to understand and use the environment in which you are in, then to be used by that environment – advice that extends to many facets of our technologically connected work and private lives of today.