
Negotiating Classroom Process: Lessons from Adult Learning

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Learning by doing is standard fare in negotiation courses across disciplines, and techniques such as learning contracts, self-reflective essays, and small-group work are commonly used. In addition, teachers must resist the temptation to “teach the canon” without regard to the needs, interests, and concerns of the students in the room. Learner-centered education requires that teachers build from the beliefs and preconceptions that students bring to the classroom, including their cultural beliefs and norms about conflict resolution, some of which may be at odds with the North American canon. A discussion-based approach to teaching not only engages students more actively in the learning process but also models many of the skills negotiation teachers seek to develop in their student-negotiators.

Key words: negotiation, classroom process, adult learning, culture.

Introduction

Adults who study negotiation at the graduate, postgraduate, or continuing education level typically do so for practical reasons: they have a

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professional and/or personal need to improve their negotiation skills. Like other adult learners, these students' interest in the subject develops from the tasks and problems they encounter in everyday life. They often bring rich experience to bear on the new material presented, and they are motivated to learn things they can use outside the classroom (Knowles, Holton, and Swanson 2005).

A top-down, hierarchical approach to teaching — the traditional university model of the teacher as repository and conveyor of knowledge — is unlikely to appeal to such students because it encourages passivity, dependence, and, ultimately, withdrawal on the part of would-be learners.¹ In addition, in its undiluted form, it presumes certainty about what it is that needs to be taught. As Brazilian educational theorist Paulo Freire argued, “In the banking concept of education, knowledge is a gift bestowed by those who consider themselves knowledgeable upon those whom they consider to know nothing” (Freire 2007: 72). Adult learners, by contrast, respond to an environment in which they are active participants in structuring their own learning, in terms of subject matter, pacing, and goals (Knowles, Holton, and Swanson 2005).

What are the features of an environment conducive to adult learning? To help put learners in the driver's seat, some teachers use such devices as learning contracts, in which students set their own goals and terms of engagement in a class, midcourse evaluations that consider how well those commitments have been fulfilled and whether they remain appropriate, and self-appraisals that help assess progress in a graded class (Schneider and Macfarlane 2003). In addition, most North American teachers of negotiation use role plays, games, reflective and analytical writing, minilectures, oral presentations, and/or demonstrations to engage students with varied learning styles and to keep them actively involved in the process (Bordone and Mnookin 2000). Indeed, much of the negotiation teaching that has been developed in law, business, and other graduate and executive training programs over the last thirty years incorporates important aspects of contemporary adult learning theory.²

Going forward, how might we expand our understanding of adult learning in general to expand the repertoire of current negotiation teaching techniques and devices noted above? In particular, how might we leverage the educational power of *classroom process* to maximize student learning about negotiation?

Creating a Learning Environment: Classroom Process

The question for us as teachers is *how* we influence our students, not whether. It is a question about a relationship: *Where are our students going, and who are we for them in their journey?*

—Daloz (1986: 3)

The Learner-Centered Classroom

As a starting point, adult learning theorists have suggested that a student-centered focus on learning should replace the traditional instructor-centered focus on teaching. This change is significant because it requires recognizing that “process and classroom climate” are as important to learning as the subject matter and content of a course (Garvin 1991: 8). Authority cannot reside in the teacher alone: the goal is to encourage curiosity and interest among the students — who will learn from each other as well as from the teacher — rather than to deliver “truths” to be digested. The brain is “designed to perceive and generate patterns [and] . . . resists having meaningless patterns imposed on it . . . isolated pieces of information that are unrelated to what makes sense to a particular student” (Caine and Caine 1990: 67). Before a teacher can know what she needs to teach, she has to know the people she is teaching. Students, and especially adult students, are not blank slates. If she fails to figure out what beliefs and (mis)understandings students bring to the task of learning, what the teacher offers may be only of superficial and fleeting value:

Students come to the classroom with preconceptions about how the world works. If their initial understanding is not engaged, they may fail to grasp new concepts and information that are taught, or they may learn for purposes of a test but revert to their preconceptions outside the classroom (National Research Council 2000: 14–15).

The writers for the television comedy show *Saturday Night Live* grasped the National Research Council’s point that people do not retain what they learn unless it builds on what they already know. As Laurel Oates has recounted, the *Saturday Night Live* character Father Guido Sarducci once “proposed a new type of university: The Five-Minute University. Because most students forget most of what they are taught, the Five-Minute University would teach only those things that the typical student remembers” after five years, such as the phrase “supply and demand” in a five-minute economics course (or, similarly, the phrase “win-win solution” in a five-minute negotiation course) (Oates 2008: 677–678). If a teacher seeks to accomplish more than that, even in a short executive education course, she must tailor the material to the particular individuals involved.

Every book on negotiation says something to the effect that we all negotiate all the time in our daily lives. Unlike teaching histology or Mandarin, then, teaching negotiation inevitably involves encountering many preexisting beliefs and practices. This rich foundation makes it all the more important for instructors to bring students’ implicit understandings to the surface, discover their preconceptions, link their everyday knowledge to

our theoretical concepts, and improve the possibilities for new learning. Without a sense of what students already believe about negotiation, it would be hard to know what they need to learn (or unlearn) in the time available.

The cultural practices that students bring to the study of negotiation are an important aspect of their preconceptions about the subject. By ignoring such practices, teachers of negotiation working in foreign countries risk having what they teach quickly forgotten after the course ends and the students return to a more familiar environment. In addition, students' professional cultures have a powerful effect on their assumptions about negotiation. North American law students, for example, usually take their first formal negotiation course after one or two years of courses focused on the adversary legal system and the study of litigated cases. Many of them are thus skeptical about the possibilities of integrative bargaining. Unless their professional cultural assumptions (for instance, the privileging of individualistic, rights-based, and distributive approaches to conflict) are identified and built upon, such students are unlikely to pay more than lip service to the potential for adding value through integrative bargaining.

Making Meaning Together

To take Freire at his word, then, rather than "mak[ing] deposits which the students patiently receive, memorize, and repeat" (Freire 2007: 72), the teacher must bring to the surface the learners' questions, so that the information he presents will be meaningful to the particular group of people in the room. For example, he might start a law school negotiation class by asking, "What are your concerns about yourself as a negotiator?" and "What are your questions about negotiating as a lawyer?" More generally, he might ask, "What images or metaphors come to mind when you hear the word 'negotiation'?" or "Think of someone whom you consider a good negotiator. What characteristics make him or her good at it?" Such an approach signals that the students are active participants in their own learning and need to take responsibility for it. It also acknowledges that they do not come to the subject as complete novices and thus begins the process of surfacing their preexisting beliefs and understandings about negotiation.

The teacher could further foster active learning by asking the students to share their answers to the above questions in small groups after writing them down. Small-group discussions help students get acquainted and start participating early on. Students can see where their responses overlap, and listing the most common responses on a board or flip chart can give everyone, including the teacher, a road map of where the class needs to go. In one group, the questions may reveal that students find it difficult to behave assertively in negotiation, and for these students, a focus on distributive techniques might make sense. (See Ebner and Efron 2009 on teaching

positional bargaining.) In another, students' answers may reveal a hyper-competitive zeal that calls for carefully working to develop a capacity for collaboration. Individual concerns can also guide one-on-one feedback or personalized reading/writing assignments as the class progresses. Such a student-centered approach can wreak havoc with a tightly organized and planned syllabus, but it has the distinct advantage of increasing the likelihood that the students will actually be able to use what the teacher offers.

Simply plunging in and teaching what students "need to know," based on the teacher's understanding of the subject, runs the risk that much of what she says will go in one ear and out the other — either because it challenges what students believe, without engaging those underlying beliefs, or because the teacher is talking about oranges (and juice and peels) when students are more interested in apples.³ This is not to say that teachers should avoid drawing upon their experience and expertise in deciding what aspects of negotiation theory and practice to incorporate in a course and in what order to present them. Learning that "sticks," however, must build on what students already know in order to have meaning and relevance for them: "The more information and skills are separated from prior knowledge and actual experience, the more we depend on rote memory and repetition. . . . [C]oncentrating too heavily on the storage and recall of unconnected facts is a very inefficient use of the brain" (Caine and Caine 1990: 68).

To incorporate what learning theorists have to say about the *process* by which people learn, a teacher needs to start from students' existing knowledge about negotiation and use her expertise to build from there to an organized understanding of important concepts in the field. A learning environment is not something that she can simply decree: it is cocreated by the students and the teacher. It does not emanate from the teacher, as in the traditional model, but is the product of a relationship. The emotional message that is sent by the teacher is as important as the intellectual message, and it often determines whether the latter is received at all: "What we learn is influenced and organized by emotions. . . . Thus, emotions and cognition cannot be separated. Emotions are also crucial to memory because they facilitate the storage and recall of information" (Caine and Caine 1990: 67).

First impressions count (Leary and Wheeler 2003), and much of the information that students gather about a teacher is not based on what the teacher says but on what she does that sets a tone for the classroom exchange. Is the teacher open to the needs and interests of the students, or does she have a set agenda? Is it safe to take risks, or is there a "right" way to do things? Does she give the students opportunities to engage with each other, or is the teacher supposed to be the center of attention and the focus of student comments? The norms and values that will prevail in the classroom begin to be set in the first class, and the implicit contracts a teacher

establishes with students through her conduct of the class will have equal if not greater force than any explicit ones she enters into with them.

Encouraging Active Learning

Much university teaching is conducted in the traditional top-down lecture format, and, at least in law schools, much nonskills teaching is still largely influenced by that traditional model. To develop and maintain a commitment to an active learning process requires considerable thought and effort, and both more flexibility from teachers and more participation from students. The teacher is responsible for both process *and* content, responsibilities best fulfilled by creating a climate in which the students do most of the talking and make most of the important points in a discussion.

Questioning

Management scholar David Garvin has written that to promote active learning educators must make three “shifts”: from an “autocratic classroom . . . to a more democratic environment,” from “a concern for the material alone to an equal focus on content, classroom process, and the learning climate,” and from “declarative explanations, rooted in analytical understanding and knowledge of subject matter, to questioning, listening, and responding” (Garvin 1991: 10). The shift from explanation to “questioning, listening, and responding” to which Garvin referred is central to the active learning process that he and his colleagues described in their book *Education for Judgment* (Christensen, Garvin, and Sweet 1991). This shift is also key to accomplishing the other pedagogical shifts Garvin emphasized because these techniques put the focus on the students and *how* they are learning as well as on *what* they are learning. For teachers of negotiation, questioning, listening, and responding have the significant added value of embodying important negotiation principles.

Some of the ideas discussed in *Education for Judgment* (Christensen, Garvin, and Sweet 1991) will be familiar to teachers of negotiation and mediation who rely largely on experiential learning in their classes. For example, many negotiation teachers spend time helping students practice different ways of asking questions — open-ended, closed, and so on — as a means of gathering information and promoting a productive interchange in a negotiation. In the classroom, equal attention to the kinds of questions he uses, as well as the sequence and pacing of questions, allow a teacher to model the questioning skills he is teaching, while balancing coverage of content with respect for the particular interests of the class.⁴ An open-ended question, for example, “What aspect of this negotiation was most challenging for you?” invites reflection and helps the teacher tailor feedback to the students’ perceived needs, while an information-seeking question such as “What were the parties’ reservation points?” provides a factual basis for further discussion of the bargaining surplus. Similarly, in a prisoners’ dilemma problem, a question of extension might be, “What are the

implications for the parties' future relations of renegeing on an agreement to collude?" And a question such as "Can anyone think of an earlier negotiation that also involved trade-offs?" can help students learn to see the underlying similarities of negotiations involving different factual situations (see McAdoo and Manwaring 2009).

This approach to questioning differs from the Socratic one-on-one method of law school because its aim is to engage the whole group in a discussion as it develops. Questions open up the field in a way that answers cannot, and careful attention to questioning can set the tone for the class, raise or lower the abstraction level of the discussion, allow one student to demonstrate experience or another to overcome shyness — all the while modeling both a search for understanding and respect for the other minds in the room.

Listening

When it comes to listening, a focus on group process means that the teacher must listen to individual answers not only for what they reveal about a given student's grasp of the material but also to see how they contribute to the group's understanding and the discussion as a whole. The listening skills emphasized in negotiation teaching are critical for promoting active learning as well. Through careful listening, teachers learn how well the students understand the material, how able they are to listen and respond to each other, how open they are to other points of view, and whether they are deeply engaged in the topic at hand or ready to move on to something else. As with questioning, the quality of a teacher's listening in the classroom models one of the skills he aims to teach negotiation students and thus pays double dividends: it enriches the immediate group process and also pervasively conveys a core aspect of the curriculum.

Like the students, the teacher should improve his listening skills by reflecting outside of class on what he has heard so that he can increase his understanding of the class as a whole and its individual members as he goes along. Careful listening will enable course corrections that a teacher might otherwise overlook because of the tyranny of the syllabus: Are there important foundational points that only a few students have grasped? Does he need to double back and try another approach to bring the rest of the group along before moving ahead? Is the group dynamic getting in the way of some students' full participation, and how can he address it? If a teacher is truly concerned about learning and not just maximum information delivery, he needs to be mindful of the tendency to hear what he wants to hear and to fall prey to the confirmation bias in the classroom. Business educator C. Roland Christensen wrote, "I try, while listening to others, to listen to my own listening. Where are my barriers? Where do my own firmly held convictions interfere with my understanding? . . . Typically, we succeed in bringing to the forefront the material we strongly want the students to

consider — but our success can block our own ability to hear what the students are trying to communicate to us” (Christensen 1991: 165).

Responding

Responding to students, another aspect of the active learning environment discussed in *Education for Judgment* (Christensen, Garvin, and Sweet 1991), puts the teacher in the position of any negotiator after the first moves have been made. She must think ahead about what questions to ask to bring out the important lessons of the day and to engage the students’ critical thinking. She must listen carefully and at many levels to what they say and how they say it. She must also decide, on the spur of the moment, which response — a further question to the same or a different student, an invitation to another student to respond to the first comment, a summary or analysis by the teacher — will best further her overall goals. Flexibility is key, and improvisation — based on a deep understanding of the subject matter, the dynamics of the particular group, and the constraints imposed by time — is essential.

Lakshmi Balachandra and her colleagues (2005) suggested that negotiation instructors teach *students* the improvisational skills of formulating and adapting a strategy, managing the process in the moment, and developing creative solutions. Teachers need to apply these same improvisational skills in the classroom — teaching them implicitly through modeling — whether or not they teach them explicitly as well. Through her responses, the teacher negotiates each class session and the potentially contradictory needs of teacher, class, and individual student. Christensen noted the following benchmarks in considering what responses to make:

Will my response put the speaker at high risk in terms of self-esteem or peer relationships? . . . balance the needs of the individual student and the wider group? . . . balance the immediate interests of the class with the need to cover the instruction program of the day? . . . stretch the group’s knowledge of subject material and its discussion expertise and yet permit honorable retreat if my expectations are unrealistic? . . . fit the norms and values of the learning community — cohere with terms of the teacher-student learning contract? . . . balance the amount of available class time with that needed to explore the topic in appropriate depth? (Christensen 1991: 169).

Depending on how the teacher responds (e.g., acknowledging a tangential remark without allowing it to derail discussion versus ignoring emotional comments rather than addressing the feelings behind them), the group is either supported as a “work group” that can move forward and build on what has developed in discussion, or it may revert to a “dependency group” (Bion 1994), looking to the teacher for answers. The quality of the teacher’s response, which depends in the first instance on the quality

of questioning and listening that preceded it, is also aided by the depth of his understanding of the individuals in the group and of the patterns they have developed *as* a group. Do they move quickly toward consensus as a way of masking differences of opinion? Do they instead tend to polarize on many topics? How does the teacher bring up the quiet voices in the room and temper the strident ones, without silencing them altogether? These and other questions have to be answered in an instant, over and over again in every class session, as they shape the teacher's responses.⁵

The focus of the teacher's attention can never simply be the subject matter of the day: the process in the room and the emotional tone of the group also determine whether learning occurs. Without an atmosphere of emotional safety, the change that learning entails is too risky: ". . . emotional processing takes place in the cognitive unconscious beyond our direct access. As a result, we have no thought without emotion. It is impossible to balance our checkbooks, drive to the store, or deal with our co-workers without an emotional component. We cannot move through our world or conjure up thoughts of past events absent accompanying emotions" (Jones and Hughes 2003: 490). As in many negotiations, sensitivity to the mood in the room often determines the success or failure of any day's effort in class. It is only in reflecting back on the flow of the discussion that a teacher can see where her responses helped the dialogue take off or fall flat.

Questioning, Listening, and Responding across Cultures

A teaching approach that emphasizes questioning, listening, and responding is unfamiliar to many North American students trained in the traditional university system. In a cross-cultural setting, the social distance between teacher and student may be even more marked than it is in North America, and the method itself may need to be adapted to bridge a cultural presumption of unquestioned teacher authority. Of course, teaching negotiation abroad requires testing one's own cultural assumptions about the relevance of certain content to different groups of students. To further their understanding of negotiation on a global scale, for example, North American teachers must be prepared to question some of their dearly held beliefs about how negotiation works, a point that cultural scholars have been making for some time. Kevin Avruch wrote that the theory Roger Fisher and William Ury (1981) advanced in their book, *Getting to Yes*, "corresponds deeply to the *idealized* Anglo middle-class model of what negotiation looks like. . . . The theory derives ultimately from a folk model — the privileged folks, in this case. . . . In the end, by ignoring any consideration of the model's ethnic and class provenance, its promotion from folk model to expert's 'theory' occurred totally unselfconsciously" (Avruch 1998: 79).

In other parts of the world, and even in many subcultures in North America, the prevailing cultural model is not that of the negotiator as an independent, individual "rational actor." Rather, "interdependent views of

personhood . . . assume that what is obvious and ‘natural’ is that the self is a *relational* entity. The self . . . is understood as fundamentally interdependent with others. . . . These cultural models of the person place greater stress than individualist models on social and relational concepts such as empathy, reciprocity, belongingness, kinship, hierarchy, loyalty, honor, respect, politeness, and social obligation” (Markus and Lin 1999: 308–309).

The advice in *Getting to Yes* (Fisher and Ury 1981; Fisher, Ury, and Patton 1991), to “separate the people from the problem,” for example, does not make sense in a cultural setting in which individuals are rarely viewed as separate entities: “Fisher and his colleagues assume that the content of conflict may be extracted from the relationship between the participants. . . . Moreover, they assume that this separation facilitates the reconciliation of problematic issues that are inherently extra-relational” (Markus and Lin 1999: 314).

Michelle LeBaron and Zena Zumeta made a similar point about the professional cultural assumptions of lawyer-mediators:

Reflecting the influence of dominant culture values on legal training, lawyers tend to be oriented to individualist perspectives, expecting clients and others to act in autonomous, self-interested ways. They are at home in the mind, comfortable with logical analysis and direct communications, and trained to dissect the facts. . . .

What lawyers are not taught from their first day in law school is that different logics and ways of meaning making exist in the world. These worldviews, when they proceed from currencies and starting points divergent from those enshrined in laws, tend to be discounted, marginalized, and ignored (LeBaron and Zumeta 2003: 469–470).

In taking their understanding of negotiation and negotiators abroad, then, North American teachers must approach the task of teaching cross-culturally with a recognition that they may have as much to learn from their students as they have to teach them. And what they learn, among other things, may be the extent to which their own understanding of negotiation is itself culture-bound and thus open to challenge in other settings.

Process as Model

How can a teacher make use of the educational power of process responsibility in teaching negotiation? As Andrea Schneider and Julie Macfarlane (2003) noted, a negotiation class *is* a multiparty negotiation. The more the *way* in which one teaches models *what* one teaches, the more deeply the lessons will be learned. Students will learn what it means to listen closely, to take the other parties’ interests into account, to care about their

perspectives on the situation, to seek joint gain, and to adapt strategy flexibly if that is what the teacher models in the classroom in the way he structures discussion and attends to students' comments and questions. If teachers only pay lip service to those concepts — in terms of who controls the conversation, who has the last word, who has the “right” answers — rather than entering into a real collaboration, students will learn only thin versions of integrative bargaining, active listening, and the like.⁶ What a teacher *tells* them will not survive in the world of practice or will serve only to provide them with sophisticated tools of manipulation. What they *experience* in the classroom is far more likely to stay with them and affect their work as negotiators.

Experiential learning is not just about going through role plays; it is also about the process of being a learner in a particular classroom environment. Negotiation teachers ask students to take the risk of “learning by doing,” and teachers should take risks as well. Like negotiation, “[t]eaching is a messy, indeterminate, inscrutable, often intimidating, and highly uncertain task” (Elmore 1991: ix). Teachers emphasize the importance of thorough negotiation preparation, in part because a negotiator must be able to meet unanticipated challenges with flexibility. Similarly, if a teacher's goal is not the delivery of a preformed “package” of information but of lessons that are right for this group now, she must be prepared, practiced, and skilled in the classroom so that she can be flexible in the moment. She can teach students what to do first in a negotiation, but from there on they must improvise as the negotiation develops. The same is true for the negotiation teacher.

The best negotiation plan is useless unless the negotiator can make it work with *these* parties in *this* situation at *this* time. Similarly, gathering information about the members of a class and meeting with students to get to know them individually are as important as learning all you can about people you expect to negotiate with professionally: it is the only way to tailor your message to the particular audience in the room. Students may come to class, but they will fail to engage unless the teacher brings something of value to them. All learners build from what they already know, and a teacher can only teach them to the extent that she figures out what their implicit knowledge is.

It can be difficult to get to know students in a short course, which makes it all the more important to involve participants in the process — to get feedback from them about what they want to learn and how they need to learn it — because there will be little time to compensate for mistakes. In a cross-cultural setting, teacher missteps (often based on unfounded assumptions) are a greater risk, which makes involving the participants early and often even more necessary. In addition, cross-cultural teaching calls for humility in the face of the tendency to present our received wisdom as the “truth” about negotiation, rather than to acknowledge the

cultural specificity of the dominant North American model, with its emphasis on reason over emotion and the individual over the collective good. If negotiation teachers aim to do more than speak English louder and louder to get people to understand, they need to learn to adapt this model to cultural settings in which both implicit and explicit preconceptions about negotiation may be different.⁷

Conclusion

Effective teaching, like effective negotiating, calls for a balance between thoughtful preparation and flexible process. Just as good negotiators adapt and adjust even the most carefully prepared strategy in response to emerging negotiation dynamics, negotiation teachers must be prepared to adapt their curricula in response to emerging classroom dynamics. By taking the time to learn about students — what they already know, think they know, do not know, believe, wonder about — and inviting them to cocreate the curriculum as well as to co-construct their understanding of negotiation, teachers can not only harness the power of collaborative and constructivist learning but also model and pervasively teach some of the very negotiation practices they encourage students to learn.

NOTES

This article benefited greatly from the comments and suggestions of two fellow participants in the 2008 “Developing Second Generation Global Negotiation Education” Conference, Professor Bobbi McAdoo of Hamline University School of Law and Melissa Manwaring, director of curriculum development at the Program on Negotiation at Harvard Law School.

1. The British psychoanalyst Wilfred Bion distinguished several types of group process based on his experiences leading group therapy sessions in a military psychiatric hospital during World War II. What he called a “dependency group” operates on the assumption that there is a leader who has and will dispense all the necessary answers (the traditional professor–student relationship), while a “work group” is one whose mental activity “is geared to a task, . . . is related to reality, [and] its methods are rational” (Bion [1961] 1994: 143). One of the challenges in teaching any group of any age is that group dynamics are unstable, and a functioning work group may turn into a dependency group under stress or into one of the other “basic assumption” groups Bion describes (“pairing” and “fight-flight” groups).

2. I use the term “adult learning theory” to refer generally to a range of twentieth and twenty-first century theories developed by educators, educational psychologists, and educational philosophers about how adults learn, from early work by Paolo Freire and Malcolm Knowles to more contemporary work by the likes of John Bransford, Robert Kegan, and Stephen Brookfield. While there is no single unifying theory of adult learning, and inconsistencies or even contradictions among different adult learning theories exist, I use the collective term to refer to the substantial descriptive and prescriptive consistencies among individual adult learning theories. See, for example, Knowles, Holton, and Swanson (2005) (identifying several common themes among theories of learning in general and of adult learning).

3. Given the severe time limitations (half day, one day, two days) of the typical executive training course in negotiation, teachers should count themselves lucky if they manage to stimulate interest in learning about negotiation and can suggest ways for participants to learn independently after the course ends.

4. Christensen lists the following typology of discussion questions: open-ended, diagnostic, information-seeking, challenge (testing), action, priority- and sequence-focused, prediction, hypothetical, extension, and generalization (Christensen 1991: 159–160).

5. For those who prefer some structure while winging it, Christensen offers a decision tree approach to choosing what response might be appropriate in a given situation: "The use of a decision tree that matches academic objectives and personal teaching style can relieve some of the time pressures inherent in making a response. One arrives in class with a framework that lays out general 'first-order' options as well as secondary steps that might follow from each potential choice" (Christensen 1991: 167-168).

6. See also Patton (2000: 39-40) (discussing teaching negotiation by example, explicit and implicit learning, and the "need for congruence between content and process") and Brookfield (2006: 67-69) (arguing that congruence between a teacher's words and actions is an indicator of authenticity, which helps students develop trust in the teacher and perceive her as an ally in learning).

7. Even in the United States, questions have been raised about how well the integrative bargaining model represents actual "best practice" among lawyers and about the extent to which it has set up a straw man in its characterization (or caricature) of competitive or distributive bargainers (Condlin 2008).

REFERENCES

- Avruch, K. 1998. *Culture and conflict resolution*. Washington, DC: U.S. Institute of Peace Press.
- Balachandra, L., M. Crossan, L. Devin, K. Leary, and B. Patton. 2005. Improvisation and teaching negotiation: Developing three essential skills. *Negotiation Journal* 21(4): 435-442.
- Bion, W. R. 1994. *Experiences in groups*. New York: Routledge. First published 1961.
- Bordone, R. and R. Mnookin. 2000. Hewlett pedagogy survey: Report on negotiation teaching in law schools. In *Negotiation pedagogy: A research survey of four disciplines*. Cambridge, MA: Program on Negotiation at Harvard Law School.
- Brookfield, S. D. 2006. *The skillful teacher: On technique, trust, and responsiveness in the classroom*, 2nd edn. San Francisco: Jossey-Bass.
- Caine, R. and G. Caine. 1990. Understanding a brain-based approach to learning and teaching. *Educational Leadership* 48(2): 66-70.
- Christensen, C. R. 1991. The discussion teacher in action: Questioning, listening and response. In *Education for judgment: The artistry of discussion leadership*, edited by C. R. Christensen, D. A. Garvin, and A. Sweet. Boston: Harvard Business School Press.
- Christensen, C. R., D. A. Garvin, and A. Sweet (eds). 1991. *Education for judgment: The artistry of discussion leadership*. Boston: Harvard Business School Press.
- Condlin, R. 2008. "Every day and in every way we are all becoming *meta* and *meta*," or how communitarian bargaining theory conquered the world (of bargaining theory). *Ohio State Journal of Dispute Resolution* 23(2): 231-299.
- Daloz, L. A. 1986. *Effective teaching and mentoring: Realizing the transformation*. San Francisco: Jossey-Bass.
- Ebner, N. and Y. Efron. 2009. Moving up: Positional bargaining revisited. In *Rethinking negotiation teaching*, edited by C. Honeyman, J. Coben, and G. DePalo.
- Elmore, R. F. 1991. Foreword. In *Education for judgment: The artistry of discussion leadership*, edited by C. R. Christensen, D. A. Garvin, and A. Sweet. Boston: Harvard Business School Press.
- Fisher, R. and W. Ury. 1981. *Getting to yes: Negotiating agreement without giving in*, 2nd edn. New York: Penguin.
- Fisher, R., W. Ury, and B. Patton. 1991. *Getting to yes: Negotiating agreement without giving in*, 2nd edn. New York: Penguin.
- Freire, P. 2007. *Pedagogy of the oppressed*. New York: Continuum.
- Garvin, D. 1991. Barriers and gateways to learning. In *Education for judgment: The artistry of discussion leadership*, edited by C. R. Christensen, D. A. Garvin, and A. Sweet. Boston: Harvard Business School Press.
- Jones, W. and S. Hughes. 2003. Complexity, conflict resolution, and how the mind works. *Conflict Resolution Quarterly* 20(4): 485-494.
- Knowles, M. S., E. F. Holton III, and R. A. Swanson 2005. *The adult learner: The definitive classic in adult education and human resource development*, 6th edn. Burlington, MA: Butterworth-Heinemann.
- LeBaron, M. and Z. Zumeta. 2003. Windows on diversity: Lawyers, culture and mediation practice. *Conflict Resolution Quarterly* 20(4): 463-472.

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- Leary, K. and M. Wheeler. 2003. Crossing the threshold: First impressions in psychoanalysis and negotiation. *Journal of Applied Psychoanalytic Studies* 5(1): 81-105.
- Markus, H. R. and L. Lin. 1999. Conflictways: Cultural diversity in the meanings and practices of conflict. In *Cultural divides*, edited by D. Prentice and D. Miller. New York: Russell Sage Foundation.
- McAdoo, B. and M. Manwaring. 2009. Teaching for implementation: Designing negotiation curricula to maximize long-term learning. *Negotiation Journal* 25(2): 195-215.
- National Research Council. 2000. *How people learn: Brain, mind, experience, and school*, edited by J. Bransford, A. Brown, and R. Cocking. Washington, DC: National Academy Press.
- Oates, L. C. 2008. Did Harvard get it right? *Mercer Law Review* 59: 675-718.
- Patton, B. 2000. On teaching negotiation. In *Teaching negotiation: Ideas and innovations*, edited by M. Wheeler. Cambridge, MA: PON Books.
- Schneider, A. and J. MacFarlane. 2003. Having students take responsibility for the process of learning. *Conflict Resolution Quarterly* 20(4): 455-462.