

ADR Techniques / Part 1 of 3

A Canon Is Revised: Has the Negotiation Field Come of Age?

BY CHRIS HONEYMAN AND ANDREA KUPFER SCHNEIDER

This article begins a three-part series introducing some of the contents of a new comprehensive book, “The Negotiator’s Desk Reference.”

The NDR, officially released in December on Amazon and online and now going into wider general release, is published by DRI Press and consists of 101 chapters from 108 contributors, covering a broad range of negotiation subjects. The creation has not only been a discovery process on what our field really is, but has been, in itself, an example of an iterated multiparty negotiation.

In this Part 1, we will briefly describe that process, in which a wide variety of colleagues improved *our* education—by showing us, over 15 years, facets and forms of negotiation we had never considered before. We will also highlight some of the substantive additions since the last time we had the privilege of discussing our efforts in these pages. [The NDR follows up on a volume we produced 12 years ago, detailed below, which had a similar *Alternatives* preview. See Andrea Kupfer Schneider & Christopher Honeyman, “Metaphors, Hostage-Takers, and Dealing with ‘Influential Outsiders’ Highlight Excerpts from a ‘Canon’ on Deal-Making,” 24 *Alternatives* 131 (September 2006)(available at <https://bit.ly/2O6f2pX>).]

We’ve been fascinated for our entire careers by the sheer variety of the forms and specialties that make up negotiation theory and practice. But we only gradually realized that the exper-

tise base of practitioners and scholars across our sprawling field had become deep enough and varied enough that *no one person* was really looking at the whole picture.

The multidisciplinary scholars working on international negotiation, for example, tend to find themselves short of time to delve into what might be useful to borrow from, for example, divorce mediation or civil litigation minitrials.

So, in 2003, we formed the Canon of Negotiation Initiative to try to address this situation. (See www.convenor.com/canon-of-negotiation.html.) At the start, we had no idea what the eventual scope would be: The initiative’s first venture was just one small conference, of roughly 20 “second-generation” scholars and practitioners—handpicked to provide the most subject-matter breadth we could get along with the requisite depth of knowledge.

We started purposely with second-generation scholars to make sure we were learning how negotiation theory and teaching had already evolved in the previous decades, since, by definition, the first generation consisted of scholars who had come to the field from somewhere else. (Like co-editor Chris Honeyman, most of them had never actually taken a course in negotiation.)

That effort produced a full special issue of the *Marquette Law Review* (Vol. 84/4, (2004) (available at <https://bit.ly/2PSxC22>)), with more than two dozen articles. These outlined research, ideas and practical experience that seemed broadly useful, that had originated from legal, business, international relations and urban planning professionals, and that were increasingly known—in their original domain.

Yet every one of these subjects had, up to that point, failed to cross over in any meaningful degree into any of the *other* domains we were studying. At that point we realized that

if one venture on a 20-author scale could find this much scholarship ripe for cross-disciplinary use, there might be considerably more such material—if we could engage a larger variety of scholars and practitioners in looking for it.

The next step was to organize 16 panels in one year, at four of the major conferences in different sectors of the field. This time, our gambit was to challenge mostly *senior* scholars to come up with topics which their former students, the 30- and 40-somethings we had enlisted first, hadn’t yet considered. (We engaged almost 60 such senior figures.)

We set up every session to encourage “What if...?” and “What else...?” discussions. We recorded every session, had them transcribed, and then combed through the transcripts for subjects even the person speaking might not have fully realized *was* a subject. Then we set about recruiting contributors to a new written work.

By 2006, as a consequence, we were able to expand the number of such topics to 80. Also by then, the array of academic disciplines and practice specialties we were able to draw on numbered almost 30.

When the American Bar Association published the resulting book, “The Negotiator’s Fieldbook,” the 80-contributor, nearly 800-page volume stood as the most comprehensive reference in our field (and was kindly described as such in reviews; *Alternatives* noted the book’s CPR Institute award; see CPR News, 25 *Alternatives* 18 (February 2007)(available at <https://bit.ly/2wt7vpi>)). It was also a rare, perhaps unique, moment for the ABA—a book in which fewer than half of the contributors were lawyers.

RE-EXAMINING PREMISES

A decade later the Fieldbook was still unmatched in its scope; but the field had not,

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of course, stood still. It was time to see what a decade's work by lots of people had produced.

It seemed best to begin by thoroughly re-examining our premises, along with the more trenchant comments by reviewers who had otherwise been generous to the Fieldbook—notably, an Austrian diplomat, who had favorably reviewed the Fieldbook for a specialist journal on international negotiation, pointed out that in conception and source material, the original book was all too American. He gently expressed a hope that someday there would be a successor that would draw more material from more cultures. We tried to take his admonition to heart.

Part of our response was to canvass scholars and experienced practitioners for new topics at workshops in Hong Kong and the Netherlands as well as at a two-day symposium held at Marquette University Law School in Milwaukee, where two dozen senior scholars from different parts of our field, including several from outside the U.S., gathered to assess the current state of the field.

Then we went back through all 80 chapters of the Negotiator's Fieldbook. It became clear that we needed an overall structure for our replacement "products" that would make them available to a much broader potential audience.

And we discovered high enthusiasm among even senior scholars for electronic publication. Creating a low-cost web edition, along with publishing the print edition through a publisher who was as committed to keeping the price down as we were, also promised easier access for people in other countries where the cost of ordering a U.S.-produced professional book could be daunting.

We also contracted with the ABA for a spinoff project: a shorter book, adapted from the larger *NDR* to include only those writings that are most relevant to lawyers, and with each chapter tailored further to that specific purpose. That's set to appear next year.

By the time the new *NDR* was ready, more than 100 people had contributed to it. A measure of the rate of change in our field is that while about 40 chapters are updated from the *Fieldbook*, about 60 of the *NDR's* 101 chapters are completely new.

This new book tries to do the translational work of taking great theory and research and showing how both affect practical negotiations. It also tries to summarize each theory or line of research into usable "bite-size" chunks, so that scholars and teachers can efficiently distinguish what they already know, what they would like to know more about, and what they might want to include in their next course.

'The Sheer Variety'

The vast subject: Negotiation.

The update: Years of research resulted in a law review, then an 800-page book excerpted in these pages more than a decade ago. Now, the project has returned, in multiple volumes.

The continuing goal: The world's top negotiation researchers write with a strict practice orientation—to make you better at what you do, whatever your setting. This introduction begins a three-part visit with a new version of an old classic, now called *The Negotiator's Desk Reference*.

The sources are as diverse as you might expect. Some chapters are based on empirical research that is truly cutting-edge. Many chapters are based on their authors' far more detailed works or even complete books—and we greatly appreciate their willingness to edit years or decades of thinking into brief pieces.

Other chapters are based primarily in stories from the real world. We've tried to interrelate such practitioners' hard-won wisdom with chapters containing scholars' related research and theoretical insights, so that the next practitioner to encounter a similar problem has more to go on.

We have organized each of the 17 sections with different voices and perspectives. For example, we believe that rather than providing one "answer" on negotiation styles, giving the reader several views will lead all of us to think about that subject more carefully. Rather than one "answer" on ethics, multiple chapters give

us different slices of how scholars with different disciplines' training each see the subject through their own prism.

Sometimes the most relevant knowledge is based on practice; sometimes it is based in empirical research, sometimes in classroom teaching—or even, occasionally, in outright theorizing.

Each of these views can help us understand a particular topic. But the combination offers better and more subtle insights.

The *NDR* also has essays reviewing the basics of negotiation—styles, communication, preparation, and so forth—for people who are new to negotiation theory. Other essays provide an overview of several different disciplines' theories as applied to negotiation, such as psychology, neurobiology, theology, law, and the arts; these are now both more varied and more developed.

Still other essays apply negotiation to particular contexts—from hostage negotiation to the military to business to getting the last seat available on "the last plane out." And newer topics push this even further, examining how negotiation is used in, for example, the professional boxing ring, on soccer teams, and in community conflict.

We have also broadened the topic areas as important new thinking has emerged. In addition to updates on ethical guidelines, for example, we now realize we need, and have, chapters on the latest research in moral character and on psychological barriers.

The *Fieldbook* said just a little about technology in negotiation, but negotiators' use of technology has mushroomed. So the *Negotiator's Desk Reference* has multiple chapters addressing online platforms as well as the new challenges of negotiating with the digital generation. Our attention to how negotiation can be used in different ways has also been expanded to consider, for instance, activism, negotiated fact-finding, system design, and the broader uses of neutrality.

WHAT WE DON'T KNOW

We remain all too aware, however, that we don't know what we don't know. One way to deal with that problem, at least structurally, is to anticipate the need to feature ideas and research we haven't yet heard of, particularly from cultures where we have yet to develop contacts.

So the publication date does *not* represent “finality,” or even a pause in our effort for half a generation. The *NDR* started with two volumes in print, and the equivalent online. But we have included a subscription to the electronic edition in the price of every copy of the hard copy version—and the electronic edition will add a third volume.

We expect that the third volume will grow gradually, as we discover exciting new research, or simply encounter specialist scholars and (*very* highly selected) expert practitioners from cultures and domains of expertise we as yet

know little or nothing about.

Alternatives readers include a sample of both groups. So we would like to close by asking for the reader’s assistance: If you find occasion to look over our work as-published, and realize that someone you know possesses a kind of expertise about negotiation of which we are clearly innocent, we would very much appreciate hearing from you.

To borrow a phrase from our colleagues (and longtime contributors) at the Hostage Negotiation Team of the New York Police Department: *Talk to us!* Please email us, at

honeyman@convenor.com or andrea.schneider@marquette.edu, with your ideas. We will greatly appreciate it.

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The next focus is on the “what,” with short excerpts from several NDR chapters in each of the two following parts. Next month’s Part 2 will feature new discoveries about negotiation between individuals. And the final Part 3 will include selections from what we’ve learned about negotiation with and between groups, firms and other organizations.

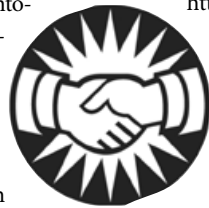
The Master Mediator / Part 1 of 3

A Roundup: The Emotional Journey Review

BY ROBERT A. CREO

Let’s distill the past two years of publications by repeating the theme, and listing the core principles, tenets, concepts, and heuristics. (Original columns are cited and linked.)

Years of research and work by Antonio Damasio, a professor of neuroscience and director of the Brain and Creativity Institute at the University of Southern California Dornsife in Los Angeles, as well as others, that includes sophisticated studies with magnetic image scanning of the brain, has concluded that decision making is a holistic process that integrates logic, emotion, and values.



The traditional duality of separating reason and emotion is simplistic ... and dangerously inaccurate. Getting the Feel of Feelings, 34 *Alternatives* (July/August, 2016)(available at <https://bit.ly/2C1rLCS>).

Any approach to transform human beliefs, behaviors, and positions based upon strong emotions should be done in a transparent and mostly facilitative manner. The mediator’s openness about the process—and his or her own feelings—are instrumental in creating a setting that produces positive results. “Emotional Legitimacy: The Choices We Make,” 36 *Alternatives* 87 (June 2017)(available at <https://bit.ly/2zYBLvq>).

In this Part 1, we will re-visit the negative emotions. In Parts 2 and 3 over the next two issues, we will summarize neutral and positive emotions in mediation.

DEFUSING INTENSE EMOTIONS

Affect Labeling is very different from conversation. The participant is in his or her own lane and traveling at one’s own pace. There is no flipping back and forth on speaker-listener lanes and no multitasking as one hears and thinks about the words of the other. “Tell the Participant: ‘You Are

Very Angry.’ Then Wait. That’s ‘Affect Labeling.’ And It Works,” 36 *Alternatives* 115 (September 2018)(available at <https://bit.ly/2OPvgmI>).

SHAME

The majority of shame researchers and clinicians agree that the difference between shame and guilt is best understood as the difference between “I am bad” and “I did something bad.”

Guilt and shame, however, are present in civil disputes. People have acted, and others are harmed or perceive themselves as being

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THE THEME

Master Mediator Columnist Bob Creo is concluding a long look at emotions in mediation, summarizing here and over the next two issues the more than 20 columns in a series that stretches back to the July/August 2016 issue. Emotions are present in all participants in a mediation session, including the mediator, and regardless of setting. The series addresses both negative and positive emotions in the decision-making process. You can read the full columns in the Wiley Online Library at <http://bit.ly/1BUALop>.

The author is a Pittsburgh attorney-neutral who has served since 1979 as an arbitrator and mediator in the United States and internationally handling thousands of cases. He conducts negotiation and decision behavior courses that focus on neuroscience and the study of decision-making. He is annually recognized by Best Lawyers in America and was named in both 2017 and 2014 as Pittsburgh Mediator of the Year. He is the author of numerous publications, including “Alternative Dispute Resolution: Law, Procedure and Commentary for the Pennsylvania Practitioner” (George T. Bisel Co. 2006). He is the principal of Happy Effective Lawyer LLC, an initiative focusing on lawyer contentment, core competencies, soft skills, and peak performance, which publishes *The Effective Lawyer* (<https://happyeffectivelawyer.org/>) Blog. He is a longtime member of *Alternatives*’ editorial board and of the CPR Institute’s Panels of Distinguished Neutrals. His website is www.robertcreo.com.