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Impact of Individual Differences on Negotiation Success

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Insurance examiners are involved in negotiations at every step of the dispute resolution process, not just when it comes to settlement. This begs the question, how does one become a more effective negotiator? This question, in turn, necessitates an inquiry into how individual differences impact negotiations, or what effect these differences have on the bargaining process. For example, does one's culture or race impact how he or she perceived and participates in the negotiation process? Academics have advanced our understanding of fundamental psychological and social processes in negotiation over the last two decades, and their analyses of various individual traits have revealed various associations with individual differences in objective negotiation performance. To put it simply, from the plethora of research conducted regarding the impact of individual differences on negotiation performance, one clear theme emerges: individual differences do matter. This paper attempts to canvas some of these differences and explain their effect on the negotiation process in order to provide examiners with the tools required to effectively (and successfully) negotiate. In order to accomplish this, this paper will (i) examine the role of negotiation in the dispute resolution process generally, (ii) outline previous research findings regarding the role of individual differences in negotiation, and (iii) explore how these individual differences impact negotiation performance.

Why it Matters: The Role of Negotiation in Dispute Resolution

The Theoretical Underpinnings of Negotiation

Various disciplines, including political science, psychology, sociology, and law, have been used to develop theoretical understandings of the negotiation process in various settings. In its most basic form, the term negotiation refers to a mutual decision-making process wherein scarce resources are sought to be allocated.¹ The structure of the negotiation process is determined by the degree of conflict between the parties' interests.² Throughout the literature, theories of negotiation have been dichotomised or trichotomised into models of interactive (problem-solving) bargaining, distributive (competitive) bargaining and principled (cooperative) bargaining.³ Much of the research surrounding the theories of negotiation has been dedicated to determining under what conditions particular theories are used, and under what conditions particular theories work best. In other words, it is a contested area within the academic field as to whether different negotiation styles or approaches affect negotiation outcomes.

For instance, in the context of personal injury claims, researchers have found that most negotiations are of a low intensity nature in that they settle on the basis of early

¹ Pruitt, D. G. (1983). Integrative Agreements: Nature and Antecedents. In M. H. Bazerman & R. J. Lewicki (Eds.), *Negotiating in organizations* (pp. 35-50). Beverly Hills, CA: Sage.

² *Ibid.* Pruitt, D.G. (1981). Negotiation behavior. New York: Academic Press.

³ Menkel-Meadow, C. (1993), *Lawyer Negotiations: Theories and Realities – What We Learn From Mediation*, 56 Mod. L. Rev.

settlement offers.⁴ Further, past research has also found that those who engage in competitive or hard bargaining achieve higher settlements than those who engage in cooperative bargaining (although cooperation was found to be a more common strategy). The latter assertions are supported by recent studies completed by Oxford Centre researchers who found that plaintiffs who rejected a first offer were likely to receive a second offer that was much higher than the first.⁵ However, these researchers also found that there was a strong likelihood that the first offer made by the defendant's insurer would be accepted. This line of research has also identified that structural factors, such as the fee structure of the lawyer, influences the use of more conventional negotiation strategies.⁶ That is, where a lawyer is paid on a contingency basis, the incentive to monetize all issues in dispute in exchange for payment is strong, thereby inhibiting efforts at more creative or non-monetary solutions.⁷

The Pervasiveness of Negotiation in the Dispute Resolution Process

The research described in the previous section suggests that utilisation of a specific theoretical model may depend on norms that develop in certain practice areas or in certain geographical areas.⁸ However, regardless of which negotiation model is used, it should be remembered that it is not only lawyers who engage in the negotiation process during dispute resolution. Rather, the substantial majority of personal injury and property damages cases resolve without court intervention. As such, a large majority of claims are handled by representatives of insurance companies. For instance, in the personal injury context, adjusters are tasked with refuting excessive medical charges, arguing contributory negligence and negotiating settlements having regard to the policy limits and the plaintiff's alleged injuries. As such, it is evident that one of the most basic elements of the claims process is that of negotiation.

While the reality is that adjusters are involved in negotiations at all stages of the claims process, challenges remain regarding how to effectively negotiate in a world that is becoming ever increasingly diversified. For instance, millennials (generally born between 1980 and 2000) are becoming immersed within the labour market, which means that we are now more likely to be negotiating with those from a different generation. Millennials have grown up in a time of rapid change and growth, thus giving them a set of expectations and priorities which is drastically different from previous generations. Further, as is well known, with the advent of globalization our world has experienced vast cultural and racial diversity. It should be remembered that not all cultures participate or even value the negotiation process in the same way. As

⁴ Kritzer, H. (1990), *Let's Make a Deal: Understanding the Negotiation Process in Ordinary Litigation*, Madison, Wis: University of Wisconsin Press.; Kritzer, H. (1989), *A Comparative Perspective on Settlement and Bargaining in Personal Injury Cases*, 14 Law and Social Inquiry; Glenn, H. (1988), *Hard Bargaining: out of Court Settlement in Personal Injury Actions*, Oxford: Clarendon Press.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

⁸ Lande, J.M. (2014), *A Framework for Advancing Negotiation Theory: Implications from a Study of How Lawyers Reach Agreement in Pretrial Litigation*, 16 Cardozo Journal of Conflict resolution.

such, in order to be successful in the negotiation process, it is critical that we appreciate and (attempt to) understand our differences and how those differences impact negotiations.

Individual Differences & Negotiation

As noted above, plentiful research has been devoted to explaining different negotiation theories and deciphering under what conditions those theories are used. From that research, findings are extrapolated regarding which theories garner the most negotiation success. However, this paper looks at negotiation success from a different point of view. This paper posits that it does not matter so much what negotiation theory or model is used; rather, what matters is determining how *individual differences* impact negotiation

The Existing Research

There is extensive literature documenting the role of individual differences in negotiation. Of note, scholar Hillary Anger Elfenbein recently undertook a comprehensive study to determine which individual differences matter in predicting negotiation success.⁹ In order to do this, she first conducted an in-depth literature review (wherein approximately 5,000 papers were reviewed) and generated a list of categories of all the characteristics which had previously been studied. These categories can broadly be described as follows: (i) personal background characteristics, (ii) abilities, (iii) personality traits, (iv) motivational styles, and (v) expectations and beliefs.

What follows is a brief review of relevant research findings in each of these areas, and some useful pointers on how one can more effectively engage in negotiations taking into account the negotiators' individual differences.

Background Characteristics

With respect to personal background characteristics, this category encompasses factors such as sex, culture, formal negotiation experience, age, appearance, socio-economic status, educational level, birth order, height, religion, and masculinity/femininity.

Culture

Most of the research regarding background characteristics has been focused on how sex, gender and culture impact negotiation. The findings in this area are rich, interesting, and complex. For example, with respect to culture, it has been

⁹ Elfenbein, H.A. (2015), *Individual Differences in Negotiation: A Nearly Abandoned Pursuit Revived*, 24(2) Current Directions in Social Research.

demonstrated that individuals from Western cultures hold more individualistic views, as they understand themselves as independent of the social groups they belong to.¹⁰ These people view themselves as free to focus on personal goals to self-actualize rather than on social obligations.¹¹ In this regard, an independent view of oneself is associated with the perspective that negotiation is about distributing resources, and not so much about preserving relationships. In individualistic cultures, negotiators tend to share information directly – that is, through direct questioning about their choices or preferences.

On the other hand, individuals from Eastern cultures tend to hold interdependent or collectivist views. Individuals in these cultures understand themselves within the context of the social groups they belong to.¹² These individuals view themselves as constrained by social obligations to maintain harmony and preserve "face" within their social groups.¹³ An interdependent view is associated with the perspective that negotiation is about relationships first, and then about distributing resources. In interdependent or collectivist cultures (such as Japan, Russia, Hong Kong, etc.) negotiators tend to share information indirectly – that is, through patterns of their offers.

It has been shown that those from Western cultures achieve higher joint gains when they share information directly, whereas those from Eastern cultures achieve higher joint gains when they share information indirectly (e.g., through behaviours, inquiries, concerns, emotions, etc.).¹⁴ Thus, challenges may be faced when there are intercultural negotiations taking place. For instance, Jeanne Brett et al, in their research, found that joint gains were lower in inter-cultural negotiations between US and Japanese negotiators versus intra-cultural negotiations in both groups.¹⁵ The outcomes resulted, in part, from the failure of each culture to understand the others' priorities as well as styles of information sharing (direct versus indirect).

What does this mean for successfully navigating inter-cultural negotiations? The first step is evidently to acknowledge the different values and assumptions differing cultures place on the negotiation process. Not every culture negotiates in the same way. As such, it is necessary for negotiators to adapt to new cultural settings. For instance, if one is negotiating with an individual from an Eastern cultural background, it should be remembered that it is normative for them not to share information directly, and that their priorities lie with preserving relationships versus simply distributing resources.

¹⁰ *Ibid.* Bulow, A.M. and Kumar, A. (2011), *Culture and Negotiation*, 16 International Negotiation; Docherty, J.S. (2003-2004), *Culture and Negotiation: Symmetrical Anthropology for Negotiators*, 87 Marquette Law Review; Gelfand, M., Lun J. and Lyons, S. (2011), *Descriptive Norms as Carriers of Culture in Negotiation*, 16 International Negotiation.

¹¹ *Ibid.*

¹² *Ibid.*

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ Brett, J., Adair, W., Lempereur A., Okumura T., et al (1998), *Culture and Joint Gains in Negotiation*, 14 Negotiation Journal.

Gender

With respect to gender, research has shown that differences in perceived negotiating ability of women and men may be caused by beliefs about what personal characteristic individuals ascribe to effective negotiators. (Note, this research is largely based on a Western cultural perspective.) That is, many traits generally associated with effective negotiators are viewed as masculine, while many traits associated with unsuccessful negotiators are viewed as feminine. In this regard, Laura Kray et al, conducted a study wherein they asked MBA students to indicate whether they believed one gender had an advantage in negotiations and, if yes, which gender.¹⁶ The results showed that the majority of students thought men had a negotiation advantage. The students were then asked to provide a reason for their response. In providing their reasons, the students offered a characterisation of men in terms of their strength and assertiveness and women in terms of their concern for others and emotionality.¹⁷

Some older research has also shown that men outperform women in mixed-gender negotiations. However, and interestingly, when women are "primed" with gender stereotypes – for instance, they are told that gender differences do exist – women actually outperform men.¹⁸ According to Kray et al "stereotype reactance" occurs when those in traditionally disadvantaged groups (in this case, women) are explicitly reminded of the stereotype. This type of "stereotype activation" affects a negotiator's behaviour by affecting her goals or aspirations (e.g., in overcoming the stereotype). Similarly, to the extent that stereotypes shape beliefs about negotiating ability, older research has also revealed that knowing the gender of the other negotiator influences what behaviour is expected of him or her. For instance, K. Matheson, in his research, found that knowing the gender of one's negotiating opponent impacted how exploitative or cooperative they were expected to be.¹⁹ The research found that female negotiators were expected to be more cooperative, while males were expected to be more exploitative.

Much of the gender related negotiation research discussed above posits that in the context of competitive negotiations, men are better than women. However, Charles Craver, a professor of Legal Negotiation courses, recently conducted a study which suggests otherwise.²⁰ Throughout his teachings, Professor Carver conducted various simulated negotiations between his students and collected the results over a 16 year period. He compared male and female stylistic differences, and reviewed the results achieved by students in his classes. It was found that although there were some

¹⁶ Kray, L., Galinsky, A., Thompson, L. (2001), *Reversing the gender gap in negotiations: An exploration of stereotype regeneration*, Management and Organizations.

¹⁷ *Ibid.*

¹⁸ *Ibid.*

¹⁹ Matheson, K. (1991), *Social cues in computer-mediated negotiation: Gender makes a difference*, 7(3) Computers in Human Behavior.

²⁰ Craver, C. (2013), *The Impact of Gender on Negotiation Performance*, 13 Cardozo Journal of Conflict Resolution.

differences in gender-based negotiation styles, those differences did not meaningfully influence end results.

Age

There has not been much research into how to effectively negotiate with millennials. However, from the research that has been conducted, it is evident that millennials are constantly looking for "the deal" and want to know what advantages or benefits the deal has for them individually. Further to this, research has shown that millennials place value on individual participation in the decision-making or negotiation process itself.²¹ As such, they will be more receptive to negotiation if they have (or feel as though they have) been consulted through the process in a transparent manner. Millennials have been raised to believe that their values or position matter and, as such, open communications are how best to negotiate with millennials.²² Further, millennials also place value on inclusion and, as such, they value working together to address problems raised during negotiation.

While there has not been any conclusive findings on the impact of age on negotiation success, there have been findings on the impact of how different generations communicate during negotiations. These studies can help one to identify what speaking technique to adopt, depending on the age of one's opponent, in order to maximise negotiation success. The difference in communication style was exemplified in a recent study conducted by J. Holler et al. wherein younger and older adults participated in a story telling task in which a speaker narrated comic stories to a listener.²³ The listener was shown one half of the story board, while only the speaker was shown the full story. The researchers found that younger adults produced more words and more gestures when relating content that was novel to the listener. On the flip side, younger (not older) adults conveyed more information in their gestures and speech when there was an absence of common ground.

Another study conducted by Susan Kemper et al. also identified cross-generational communication differences.²⁴ In that study, the researchers paired young with young adults, old with old adults and young and old adults. In each group, there was a speaker and a listener. The listener was told to reproduce a route drawn on a map, following the speaker's instructions. The results found that older speakers showed little variation in response to listener age or task difficulty. However, the young speakers adopted a simplified speech style when addressing older listeners. Interestingly, older

²¹ Papp, R., Matulich, E., *Negotiating the deal: using technology to reach the millennials*, Journal of Behavioral Studies; Dalton, K.M., (2012), *Bridging the Digital Divide and Guiding the Millennial Generation's Research and Analysis*, Barry L. Rev.

²² *Ibid.*

²³ Schubotz, L., Holler, J., & Ozyurek, A. (2015). *Age-related differences in multi-modal audience design: Young, but not old speakers, adapt speech and gestures to their addressee's knowledge*. In G. Ferré, & M. Tutton (Eds.), *Proceedings of the 4th GESPIN - Gesture & Speech in Interaction Conference* (pp. 211-216).

²⁴ Kemper, S., Vandepute D., and Rice, K. (1995), *Speech Adjustments to Aging During a Referential Communication Task*, Journal of Language and Psychology.

listeners benefitted from that speech style, as shown in the accuracy of their maps. However, despite the effective communication style, older adults still reported greater communication problems when interacting with young adults.

Other Characteristics

There has been little research the impact of social characteristics (such as education, religion, economic status) or physical characteristics (such age, attractiveness, masculinity) on negotiation performance. However, some interesting studies have shown that some physical characteristics can change a negotiator's behaviour. For example, some research has found that greater facial width-to-height in men is associated with socially undesirable behaviors, including being less cooperative, less trustworthy, and more prejudiced.²⁵

Abilities

The "abilities" category encompasses factors such as cognitive intelligence (i.e., IQ), emotional intelligence, creativity, and cultural intelligence.²⁶ Greater abilities (for example, higher IQs) appear to be valuable for boosting win-win outcomes in negotiations. However, the idea that greater ability improves individual success in negotiations has not, to date, been substantiated. In a study conducted by Bruce Barry and Raymond Friedman, they hypothesized that intelligence would be associated with better outcomes in negotiations.²⁷ This hypothesis stemmed from the array of empirical research which has demonstrated that highly intelligent individuals are better at acquiring relevant knowledge that enables them to problem solve.²⁸ Barry and Friedman hypothesized that cognitive ability would predict negotiation success since negotiation is, fundamentally, an information-processing task which combines information acquisition with decision making. As such, the researchers posited that the more one is able to plan ahead, strategize, analyse alternatives and contemplate opening moves, the better one would do in a negotiation.

In their study, Barry and Friedman took hundreds of grad students enrolled in a management course and randomly grouped them off into pairs. The researchers assigned one member of each group to be a buyer or a seller. The issue at stake in the negotiation was the purchase price of an industrial commodity. With respect to measuring for intelligence, the researchers used the students' Graduate Management Admission Test (GMAT) scores.²⁹ The researchers predicted that those students with higher GMAT scores would garner higher economic gains. However, the researchers' hypothesis was not substantiated. Rather, the results revealed that there was no

²⁵ Haselhuhn MP, Wong E.M. (2012), *Bad to the bone: Facial structure predicts unethical behaviour*, 279 Proc Biol Sci.

²⁶ Elfenbein, *supra* note 9.

²⁷ Barry, B. & Friedman R.A. (1998), *Bargainer characteristics in distributive and integrative negotiation*, Journal of Personality and Social Psychology, 74(2).

²⁸ *Ibid.*

²⁹ *Ibid.*

relationship between economic gain and intelligence, for either buyers or sellers. As such, the researchers concluded that when it comes to negotiation, intelligence, the ability to plan, organize and problem-solve seem to be relatively unimportant.

Personality Traits

With respect to personality traits, psychologists often categorize these traits into five variables: extraversion, agreeableness, conscientiousness, neuroticism, and openness.³⁰ The vast majority of studies have found that these variables do not have a large impact on negotiation outcome. One exception to this concerns extraversion and agreeableness, which have been shown to actually be liabilities in negotiation.³¹ For instance, Bruce Barry and Raymond Friedman, in their research, found that extraversion (which refers to sociability, assertiveness and talkativeness) has a negative effect on negotiation success; this, they found was partly because of extroverts' tendency towards excessive information sharing.³² As Barry and Friedman put it, in the (distributive) negotiation context "strategy is more important than cooperation, and negotiator interests are better served by the acquisition of information from one's opponent than by sharing information about one's own underlying interests".³³ Similarly, being agreeable has the potential to undermine the necessary pursuit of self-interest in the negotiation process.

Thus, if one tends to fall on the more "extraverted" or "agreeable" end of the personality trait spectrum, it would be wise (for the sake of the success of the negotiation) to down-play those qualities.

Personality traits have been shown to exert a strong influence on how negotiators feel after negotiation.³⁴ For example, those with neurotic tendencies tend to report more negative experiences in their negotiations, as well as after.³⁵ In negotiation, these effects may reinforce judgments regarding how the negotiation is evolving, which, in turn, may yield consequences for tactical choice and strategy.

Another important aspect of personality concerns emotions. Bruce Barry et al note that negotiation is fundamentally an emotional social interaction.³⁶ In general, negotiators who generally experience more positive affect (emotion/mood) and less negative affect tend to perform better in negotiations.³⁷ This was demonstrated in P.J.

³⁰ McCrae, R.R. and Costa (1987), *Validation of the five-factor model of personality across instruments and observers*, 52 *Journal of Personality and Social Psychology*.

³¹ (Barry & Friedman, 1998; Dimotakis, Conlon, & Ilies, 2012) – note difference between distributive v. info sharing bargaining.

³² Barry et al, *supra* note 27.

³³ *Ibid.*

³⁴ Elfenbein, *supra* note 9.

³⁵ *Ibid*

³⁶ Barry, B., Fulmer, I.S., Van Kleef, G. (2004), *I Laughed, I Cried, I Settled: The Role of Emotion in Negotiation*, *The Handbook of Negotiation and Culture*.

³⁷ Elfenbein, *supra* note 9.

Carnevale et al.'s early research wherein they manipulated mood by having some subjects examine humorous cartoons and receive a small gift prior to the negotiation.³⁸ Those subjects who were shown the cartoons and given the gift, achieved higher joint gains and used fewer contentious tactics during negotiation when compared with those negotiators who were not exposed to mood manipulation. Thus, it may benefit a negotiators' success if he or she were to engage in an activity that positively affected his or her mood immediately prior to entering into negotiations.

Motivational Styles

Motivation is critical to negotiation in that it is difficult to imagine anyone entering into a negotiation without some sort of motivational goal. Motivational styles can be classified into three broad categories – prosocial (cooperative), competitive, and individualistic (egoistic).³⁹ At the core of these styles is a tension between having a concern for oneself, versus the other party. In their research, C.K. De Dreu et al. found that pro-social negotiators had more negotiation success as compared to competitive and individualistic negotiators. However, this only held true when the pro-social negotiators' goals were ambitious enough that it was not easy to reach an agreement by compromise, without active collaboration and problem solving (in other words, when it was not possible to simply just walk away).⁴⁰

Expectations and beliefs

Having positive expectations or beliefs has been shown to be the single best predictor of negotiation performance.⁴¹ That is, confidence that one can succeed has the strongest effect of any single variable tested across all types of individual differences.⁴²

The idea that positive expectations and beliefs influence success in negotiations largely originates from Albert Bandura's theory of self-efficacy.⁴³ According to that theory, self-efficacy is the belief in one's ability to influence events that affect one's life and control over the way these events are experienced.⁴⁴ In the context of negotiation, it has been shown that those with higher self-efficacy tend to have better negotiation success than those with low self-efficacy, as those with low self-efficacy anticipate failure. By focusing on the feelings of failure, negotiators are less likely to succeed and may ultimately give up. That is, low self-efficacy can lead to a downward self-fulfilling

³⁸ Carnevale, P. J., & De Dreu, C. K. W. (2006). *Motive: The negotiator's raison d'être*. In L. Thompson (Ed.), *Frontiers of social psychology: Negotiation theory and research*. New York, NY: Psychology Press.

³⁹ De Dreu, C. K., Weingart, L. R., & Kwon, S. (2000). *Influence of social motives on integrative negotiation: A meta-analytic review and test of two theories*. 78 *Journal of Personality and Social Psychology*.

⁴⁰ *Ibid.* Elfenbein, *supra* note 9.

⁴¹ Elfenbein, *supra* note 9.

⁴² *Ibid.* Sharma, S., Bottom, W., & Elfenbein, H. A. (2013). *On the role of personality, cognitive ability, and emotional intelligence in predicting negotiation outcomes: A meta-analysis*. 3 *Organizational Psychology Review*

⁴³ Bandura, A. (1977), *Self-efficacy: Toward a unifying theory of behavioral change*, 84 *Psychological Review*.

⁴⁴ *Ibid.*

prophecy wherein once an impasse in negotiation is hit, the negotiator is more likely to spiral into negative emotions, report negative perceptions, and see their negotiations as unsuccessful. Those negotiators are also less likely to share information and work cooperatively.⁴⁵

Self-efficacy varies across situations, and can be specific to either a distributive or an integrative negotiation. As Elfenbein explains at p 31:

Distributive self-efficacy involves confidence in using tactics such as gaining the upper hand, preventing the other negotiator from exploiting weaknesses, and convincing the other party to make most of the concessions. Integrative self-efficacy involves confidence in exchanging concessions, finding trade-offs that benefit both parties, establishing a high level of rapport, and looking for agreements that maximize both parties' interests.⁴⁶

Distributive and integrative beliefs have a positive correlation with negotiation tactics. That is, confidence in one's ability to persuade and influence, makes that individual more likely to use these tactics in negotiation. Further, and interestingly, higher self-efficacy is also related to less negative emotion experienced by negotiators who fail to reach an agreement.⁴⁷ Thus, while having positive beliefs has been shown to lead to greater negotiation success, even if the negotiation fails, those negotiators are less likely to feel bad about it!

Conclusion

This paper has posited that from the research conducted regarding the impact of individual differences on negotiation performance, one clear theme emerges: individual differences matter. This paper has canvassed some of these differences and explained their effect on the negotiation process in order to provide examiners with the tools required to effectively (and successfully) negotiate. In order to accomplish this, this paper (i) examined the role of negotiation in the dispute resolution process generally, (ii) outlined previous research findings regarding the role of individual differences in negotiation, and (iii) explored how these individual differences impact negotiation performance.

⁴⁵ *Ibid.* Sharma, *supra* note 43.

⁴⁶ Elfenbein, A. *Individual differences in negotiation*. In Handbook of Research on Negotiation. Edward Elgar Publishing (2013).

⁴⁷ Barry et al, *supra* note 46.