Negotiation – The Very Short Introductions Podcast – Ep 53

Rebecca Parker 00:07
Welcome back to the Very Short Introductions Podcast. New episodes will premiere every Thursday through to December. We hope you stick around to listen. From public health to Buddhist ethics, soft matter to classics, and art history to globalization, we'll showcase a concise and original introduction to a wide range of subjects, for wherever your curiosity may take you. So here is today's very short introduction.

Carrie Menkel-Meadow 00:32
Hello, my name is Carrie Menkel-Meadow, and I am Distinguished Professor of Law and Political Science at the University of California, Irvine. I am the author of A Very Short Introduction to Negotiation. I've been teaching and practicing and studying negotiation and mediation for close to 40 years, and I have taught negotiation and mediation in 25 countries all over the world and domestically here in the United States. We all negotiate, all the time: with ourselves, in couples and relationships, in communities, in companies and organizations, and in countries. But not all negotiations are the same. I first became interested in negotiation, when, as a practicing lawyer doing civil rights and poverty law cases, I would often win a case, but the winning of the case was very brittle. And there were winners and losers. And when I watched lawyers try to negotiate better solutions in what we call "the shadow of the courts," I saw a great opportunity to negotiate for outcomes that were better than what the court would do.

Carrie Menkel-Meadow 01:46
Courts have remedial limited imaginations. They can only do certain things, but negotiators can work to do creative solutions for all the parties that are involved. So rather than winning cases, I became interested in the study of how can we solve problems, rather than thinking only about beating the other side. Negotiation is a process by which one must engage with someone else in order to accomplish that which one wants to do. And too often, negotiators are stuck in their own minds and thinking only about what they want to accomplish, instead of thinking about what the other side might want in order to give both sides what they want. We call this trying to achieve joint gain, or the best possible solutions for all parties engaged in a problem, a conflict, or the creation of a new entity, or relationship, a treaty a contract, for example.

Carrie Menkel-Meadow 02:46
I prefer to think of negotiation as a process, by which, if we are handed some lemons, perhaps such as in a conflict, instead, what we're going to try to do is to create lemonade, or a lemon pie out of the lemons that we've been delivered. In order to do that, we have the field of negotiation and conflict resolution, which is now constituted by many of other fields, political science, economics, anthropology, psychology, sociology, urban planning, history, and all the fields that have come to bear on the question of how we can reach good solutions. Another way to think about negotiation is that it is a decision making process. If I have some exercise today, will I be able to have dessert at the end of the day?

Carrie Menkel-Meadow 03:39
That's a decision and we are negotiating with ourselves. The same is true and we encounter others; in diplomatic negotiations internationally, with an colleague at work, or in a lawsuit with the party on the other side. Negotiation, therefore, consists of two very important different components, the science of negotiation or the analysis of the conceptual models that we use to think about what's at stake in this problem or issue, and who are the other parties that we must engage, and what are all the issues? And then and only then after we've analyzed the problem, do we begin to think about the behaviors that we might possibly use, the process of negotiation behaviors? So here's six important things to think about when we contemplate and study negotiation. First, not all negotiations are the same. Context really matters. We don't negotiate the same way in our personal relationships with those we love, at work, when we're trying to avoid war or negotiate a peace, or when we're engaged in just trying to buy something from our local merchant.

Carrie Menkel-Meadow 04:51
Those are different contexts and they require different approaches. Second, not every negotiation is a negotiation over scarce resource in which we must necessarily compete with each other. It's actually quite wonderful when we find out that we have different needs and interests in a negotiation. We have different preferences. Let me give you an example from my own life. When I was a young child, there was one piece of cake left, chocolate cake. And when I came home from school, my brother and I might get into an argument about who should get that last piece of chocolate cake. My mother did what many mothers might do: she cut the cake in half. But when my brother and I were old enough to talk to each other, and to ask questions, very important in negotiation, I said, "What do you like about the cake?" and it turned out, he liked the cake and I liked the icing and the frosting. And so by cutting the cake horizontally, rather than vertically, each of us could have 100% of what we wanted.

Carrie Menkel-Meadow 05:55
This observation now documented in a lot of research allows us to trade when we have complementary and not conflicting needs and interests. So very important to know whether we're fighting or arguing about something that's scarce, or something that might be shareable. Or, as we like to say, in our field, expandable, can we expand the resources that we might possibly have? Third, people behave differently. So in addition to analyzing the problem, we also have to analyze the people that we're engaged with. And recent, important psychological research indicates that we both have individual personalities, and we are members of groups. So modern negotiation and conflict resolution theory takes a look at such factors as class, race, ethnicity, and gender, to take a look at whether we negotiate differently when we are part of a group negotiating with someone in another group, and what kinds of things can we do to minimize false stereotyping or things that get us into trouble?

Carrie Menkel-Meadow 07:02
Similarly, recent research in cognitive psychology and social psychology tell us that we all human beings make errors when we are thinking about accomplishing something with someone else. So we make cognitive errors, some of which might be familiar to those of you listening. Anchoring. The first price, the first offer will have an enormous effect on what we think the value of an item might be. Recency. What happened to me last week, what was my last negotiation like? And again, very commonly, most of us engage in what we call confirmation bias, we seek information to confirm what

we already think about the value of something, about what we want or need, and what the other side might want. Recent research tells us ways to approach these problems and others and to think more analytically, and more creatively about how to deal with them. Fourth. Negotiations can be planned for. One shouldn't just jump into an encounter with someone else without contemplating some of the very major issues that exist in any negotiation.

Carrie Menkel-Meadow 08:11
Should I make the first offer? Should I wait for someone else to make an offer? Should I make a variety of proposals? Or should I just make one offer? And then wait to see what response I get? How should I concede? What are the concession patterns that I might use? What questions should I ask the other side? In negotiation, we have learned from research that asking questions is much more important than making statements, and this is very difficult for us to learn. We tend to think of negotiation as a process by which we are trying to influence or persuade the other side by making arguments. But arguments come from our own heads, rather than trying to ask questions of the other side to see what they might be interested in, and what things we might do together.

Carrie Menkel-Meadow 09:01
As part of the behavioral choices we have, we'll be wondering whether in a particular negotiation, we should engage in, cooperation, thinking of the other side, compromising, hoping, hopefully not just splitting the difference, which is an easy but lazy way to negotiate. Competing, when it is important that we win something, or sometimes simply avoiding a difficult situation and returning to it at some other time. The most important part of negotiation for me is negotiation as an act of creativity. One might think about analyzing negotiation problems outside of one's own disciplinary domain, and looking for ways to be creative. Therefore, thinking about brain teasers and creativity and looking at solutions that come from other fields is very important in negotiation. We also want to think about when we shouldn't negotiate When someone is either to untrustworthy or evil, and we should not engage at all. We must consider the risks and costs of doing so. Also, what are the risks and costs of not engaging at all?

Carrie Menkel-Meadow 10:13
Fifth, negotiation involves trustworthiness, ethics and honesty. How do I know if I can trust the other side? And so I have studied a notion that I called "building a trust landmine." How can we know whether the other side is trustworthy? And how can we convince the other side that what we are talking about is trustworthy and can be relied on? Sixth, and very important and part of the different contexts of negotiation, is the notion that how many parties are engaged, whether it's bilateral, just two parties, trading for an item purchasing something, or multi party, such as negotiating a treaty in the UN with multiple parties, now over 200 countries in the world. The numbers of parties and the numbers of issues change the kind of negotiation. In a bilateral negotiation, we know we have an agreement if both parties consent, but it's much more complicated when there are many parties. We have issues of coalition's and of people holding out, and we have to decide what voting rule might we use. Majority? Plurality? Supermajority? If we have more than just two parties.

Carrie Menkel-Meadow 11:29
These are very important questions that we now analyze empirically, and also theoretically, by looking at such fields as game theory and decision making. The key point about negotiation is that one should

be thoughtful and analyze the negotiation before actually engaging in any particular behavior. Every negotiation presents the possibility of choice. What am I trying to accomplish? What is the other side trying to accomplish? What are the aspects of the negotiation? What's at stake? What is the thing that we're negotiating about? Can we change that? Can we be creative? Can we look to the future as well as consider the present or the past? And most importantly, is there a possibility of maximizing the joint gain for all the parties who are affected by a negotiation? Think about environmental negotiations and the effect on future generations, or the children in a divorce and custody negotiation. Others outside of the negotiation are affected by it. As many wise politicians and statesmen have said, there's never been a bad peace or a good war. I hope that you will become interested in negotiation, and will seek out ways to study and learn about how modern research and negotiation and conflict resolution can enhance the way we think about solving problems and making good decisions. I hope you will enjoy studying how to negotiate. Thank you.

Rebecca Parker 12:58
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