

What Really Happened in the Negotiation?

*David Matz**

Editors' Note: Matz outlines a very different kind of negotiation course, based on close examination of one important negotiation with a disputed history and innumerable complications. Pointing to six goals of his own which underlie the design of the course, he shows that many varieties of understanding are difficult or impossible to achieve in the more typical skills-oriented setting.

Most writing about negotiation is oriented toward the present and the future. The question we ask is: how can we negotiate better? If we refer to the history of real negotiations, the purpose is to mine it for past examples of present theory. One result is that we know very little about real negotiations. We emphasize what negotiation ought to be, but we tend to live with caricatures, if not downright erroneous versions, of what negotiations have been in actuality (Matz 2004). To confront this gap I have been teaching a course on the Israeli-Palestinian negotiations. This course has the goal of encouraging understanding about what actually happened in the negotiation, and it does so by providing a primary focus on tight close-ups of what was said, by whom, with whom present, with what responses. I have taught the course twice in a graduate program in dispute resolution, requiring that students have already taken an introductory negotiation course. I have also taught a distant cousin of this course once to Jewish high school students. It is on my agenda to teach both courses again in the coming year.

* **David Matz** is director of the Graduate Programs in Dispute Resolution at the University of Massachusetts/Boston in Boston, Massachusetts and principal at The Mediation Group in Brookline, Massachusetts. His email address is DavideMatz@gmail.com.

A Variety of Goals

Let me be as explicit as I can about what I mean by wanting students to understand these negotiations. (This statement of goals is more thought-out than one I could have written when originally planning the course.) I seem to mean six things:

- 1) I want them to have an idea of what people actually said to each other in the negotiation. I think of these dialogues as the “raw data” of negotiation study. These data, admittedly selective, provide the stuff with which to assess many of the large generalizations that dominate most writing in our field.
- 2) I want them to have an idea of how many variables are in play during a negotiation. These can include personal ambitions, intra-group dynamics, inter-personal dynamics, quality and content of staff work, kinds and effectiveness of leadership, political concerns (e.g., staying in office, estimations of what constituencies will accept), whether the major players are, or are not, at the table, the role of the press, and the perceptions of what is at stake at the historical level.
- 3) I want them to see these all through the lens of negotiation (and mediation) theory, to see whether that theory describes what went on and whether or in what ways that technique seemed to “work.”
- 4) In general, though not absolutely, I am wary of the lessons-learned approach to negotiations. Even when there is an evidence base, the inferences about what to do “next time” are usually arbitrary and dominated by aspiration, desperation, and theology; it is not easy to filter out such inferences. Still, I think that only a robot could resist seeking out what worked, or more often what did not work, and speculating on how that might be taken account of at a future negotiation. I want the students to do this, being aware of the many traps of self-delusion present in the exercise.
- 5) I want them to see the interplay of historical pressure and individual choice: how individuals appear to define what they were doing, how they see choices and make them, and what limits they seem constrained by.
- 6) And I want the students to formulate their own ideas about what went on at the negotiations, using the ideas offered by many critics as starting points, and the dialogues we can find as evidence. From this I want them to make their own “sense” of the process.

At bottom, I also want them to improve their skills as negotiators by enhancing their understanding of the relationship between what we teach as negotiating technique and the context in which such techniques are used. In our usual negotiation courses we highlight the technique and let the context be background, if it is present at all. This makes good teaching sense, but it is not how negotiation is experienced by negotiators. In this course I try to focus on how context influences technique.

Though I believe that the approach of teaching a real negotiation is valuable, and I want others to do it, I am aware of several inherent problems. I want to devote this note to describing them, along with an account of what I have done about them. Let me first set out the basic structure of the course.

I chose initially to look at Camp David I (1978, Egypt and Israel, mediated by President Carter); Oslo (1993, Israel and the Palestinians); Camp David II (2000, Israel and the Palestinians; mediated by President Clinton); and Taba (2001, Israel and the Palestinians). These offered lots of contrasts (with and without mediators, success and failure, degrees of secrecy) and lots of parallels (all peace talks, all high level, all involving Israelis and Arabs, all involving substantial risk for the leaders). When I taught the course the second time I relegated Camp David I and Taba to one-hour lectures; I found that full emphasis on four negotiations required too much fact assimilation for the students.

I have assumed that the only way students can understand these negotiations is to develop an understanding of the history, or histories, that led to the negotiations. More precisely I aimed to give a sense of the history that each side understood when it came to the table so that the students could try to see how each side saw its choices, limits, and possibilities. Roughly the first 40 percent of the course was devoted to history, with occasional mini-lectures thrown in later as the need arose.

The balance of the course was divided between: 1) a description of the overall negotiation: what preparation looked like, how long the negotiation took, who was there, how the intra-team dynamics worked, what issues were addressed, in what order, and in what settings (negotiating table, walk in the woods), with what outcomes; and 2) studying particular chunks of dialogue, some lasting several pages, some lasting only a few lines.

Let us now turn to the problems, which I have organized into six categories.

First Problem: Teaching History

There is the problem of sequencing. The obvious narrator's logic is to teach the history and then focus in on the negotiations. But the history leading up to these negotiations is, even in outline form, overwhelming in its complexity. I have found that much of it does not "stick," even later in the same term. There are several alternative ways to approach this problem, each varying in awkwardness and each attempting to juxtapose the relevant history with the negotiating example. My plan for next time is to start with perhaps two or three classes of historical overview, move into the negotiations, and then present a set of flashback lectures to explain events and players as they arise in the negotiations.

There is the problem of choosing the readings. I want readable history that sees the conflict whole and that is not so adversarial or angry as to undermine confidence in its accuracy. But I also want to emphasize how each side sees history differently, partially (in both senses), how adversarial and angry that history can be, and thus how the differences of history can influence the negotiation. Thus, I use a professionally done history text supplemented with a sampling from each side of the tendentious writings about particular moments (e.g., how and why the Palestinians left Israel in 1948).¹

Readings about the negotiations themselves present other problems. In general, scholars have not been helpful with what really happens in a negotiation. Most scholarly accounts of negotiations tend to describe the circumstances before the negotiation and the results that follow; what happened during the negotiation itself remains a black box. Studies of even the most consequential and documented of negotiations (e.g., the Conference at Versailles) tend to tail off when it comes to the actual negotiating moves used by the players. There is, of course, a small industry of scholars who have reflected on the Israeli-Arab negotiations, but these have been long on opinion and short on supportive data; when these accounts are persuasive it is because they are well written, not because they are well supported. This literature has tended to act as a continuation of the negotiation process conducted in print by scholars and commentators: by allocating blame, reframing issues, and identifying hopeful paths the authors – intentionally or not – are simulating and perhaps even enacting the next phase of the negotiating process.

There are, however, four literatures that have tried to illuminate this darkness. One is the memoirs of participants. As negotiations are often conducted in secret, the memoir becomes, by default, the prime written source of what actually happened. But the credibility of any memoir is always suspect. In addition to justifying their own work and settling scores, the authors – when the negotiation is still

on-going – have been known to use the memoir to prepare their own place in the next round. Moreover, the memoir literature for this conflict has been dominated by Israelis and Americans; the Palestinians have contributed almost not at all. Though Americans and Israelis can be self-critical and sympathetic to Palestinian concerns, there is nonetheless a huge gap where the Palestinian first-hand account of the negotiation ought to be.

Journalists have often come in after a negotiation, interviewed participants, and produced he-said, she-said accounts. These are rarely analytic, and are often – by privileging one set of interviewees – subject to limitations similar to those that infect memoirs.

Some negotiations generate documents (memos, drafts, notes) which scholars have found useful. On occasion these documents recount moments in the negotiating process, but rarely do they report the essential reality of a negotiation: the flow of dialogue. In the Israeli-Palestinian negotiations, there has been a battle to destroy or deny memos, and particularly maps, that were part of the negotiation. (The Barak memo quoted below is available, so far as I know, only in the Dennis Ross memoir (Ross 2004), though it is referred to elsewhere.)

The fourth literature is that generated by the dispute resolution field. Unfortunately, when we have tried to recount real negotiations, we have been astonishingly thin when it comes to who really said what to whom. A perusal, for example, of the conflict resolution case studies listed at the Program on Negotiation Clearinghouse and the Harvard Business Review shows an average length of about five or six pages.

In response to this less than perfect literature I have worked mainly with the memoirs, as they provide the most examples of dialogue, selecting passages that focus on key points in the negotiation, and giving most credence to those sections that are corroborated by several memoirs and pass a credibility test. But the absence of a Palestinian memoir literature is, to repeat, an ongoing deficit.

Second Problem: Where is the Negotiation?

When one studies a negotiation what is the *stuff* that one studies? Is the dialogue itself the negotiation? Or is the negotiation what occurs in the minds of the negotiators, with the dialogues being data from which one makes inferences? Or is the negotiation something (somewhere) else?

Here a bias of my own comes into play. When I study negotiations, I work hard at keeping the focus away from the inner workings of negotiators' minds. Obviously there is an enormous temptation to want to know motives, fears, strategies, and goals;

these would form the core of our ability to predict what negotiators will do and are often what we use when we try to explain. But as a teaching and scholarly focus this is mainly an illusion: the depressing fact is that ordinarily we can't know what the negotiators were thinking. Worse still, into this pit of our ignorance we (commentators, teachers, students) usually project our own fears, biases, and needs.

I have written elsewhere (Matz 2004) exploring why the search for motive is so illusory, but for now one example can suffice. At Camp David I Sadat said many times that he would not reach a separate agreement with Israel unless the Palestinian needs were also met; in the end, the Palestinians got nothing and Sadat got the Sinai back. What can one say about Sadat's motives during his Palestinian-protection phase and his motives for accepting the deal he did? Was protecting the Palestinians always a cover so the Arabs wouldn't despise him for making a separate deal with Israel? Were the Palestinians a bargaining chip? Was he sincere in trying to get something for the Palestinians but changed his mind when he concluded that Israel would never concede on this? Did he think that the spirit of Camp David would continue and that he could use his relationship with President Carter to get a deal for the Palestinians later? Did he accept the final deal as a result of pressure by President Carter and a judgment that he could not afford to jeopardize his relationship with the U.S? All of these fit various fact configurations, including comments made later by Sadat, but finally we know only what he did; we have no way of knowing *why* he did it.

Negotiators too are subject to the temptations of mind reading, and they have the additional data of personal relationship, body language, and the results of trial-and-error with which to work. As a teacher, however, what is important is that students attend to what one negotiator did in response to that negotiator's reading of the mind of the other.

If we are not going to use the data to read minds, what then do we do with it? I have used the data in four ways to help the students make sense of it. First, we can use our body of negotiation and mediation theory. Can we see this theory in action? Does it work? At Camp David II we find that the parties and the mediators, on the topic of Jerusalem, engaged in useful brainstorming with considerable sensitivity to the needs of the other side. At another point, the mediators considered the use of a single text document and decided, to their later regret, against putting it on the table. The data can also be used to point out the limits of the theory we use. One might choose to attribute the parties' decision to go to the Camp David II summit to a perceived impasse and considerable pain on both sides,

that is, to the well known “hurting stalemate” (see Zartman 2006). But, does the failure to reach an agreement mean, retrospectively, that it was not hurting enough, or that the theory itself is not very predictive?

Put more generally I try to focus the students on seeing “the negotiation” as a jointly made creature, with one parent being the data from the dialogues and one parent being the concepts we bring to the reading. Thus, whether Prime Minister Barak made a negotiating offer to Chairman Arafat (a topic of heated debate in the literature) depends on what things Barak said or did, as revealed in the dialogues, and what definition of “offer” we bring to the reading.

When students read the dialogues of negotiation it is common that they find this or that interchange to be astonishing. I encourage them to take their astonishment seriously, to unpack what they expected and why they expected it. Obviously novice analysts will be surprised by different events than will sophisticated analysts, so the surprise reflects more about the observer than it does about the negotiation. But surprise is an effective incentive for deeper study, and I urge them to let their surprise drive them to explore and explain what happened between the parties in that negotiating moment.

We also read some of the opinion-dominated literature that purports to explain what really happened in these negotiations. I ask students to use the dialogs as data to test those opinions. A much-discussed topic from Camp David II, to take one example, is whether Barak actually made an offer. By various opinion-generators we have been told that he did, he didn't, he did and withdrew it, and he did but it was “only oral.” But if you read the data provided by Ross (2004, an American text), Ismail Haniyeh (2001, a Palestinian text), and Gilead Sher (2006, an Israeli text), you find a clear convergence.

To illustrate, it may be helpful to set out here one example of this data, and give an idea of how I used it.

On the sixth day of the Camp David II negotiation (mediation), things were not going well. Amid explosions of temper, constant shifting of strategy, and contradictory signals coming from within each team, one discernible pattern became clear: the desire on the part of each side not to move until the other did first. President Clinton was scheduled to see Chairman Arafat, and Prime Minister Barak sent Clinton a note which he intended the President to see before the Arafat meeting. In fact it arrived after the meeting. Here is the note, slightly shortened:

I took the report of Shlomo Ben Ami (foreign minister) and Gilad Sher (chief of staff) of last night's discussion very badly. This is not negotiations. This is a manipulative at-

tempt to pull us to a position we will never be able to accept, without the Palestinians moving one inch. Yasir Arafat would not dare to do it without believing that in the US delegation there is a strong bias amongst many of the American team for his positions. The President is of course objective but ...the American team is not objective....I have taken upon myself unprecedented risks on the way to the summit and even the positions...presented by our people last night which I heard about after the fact and even though they are not my positions, they represent additional risks. There are people in my delegation who strongly oppose these moves. There will not be another Israeli Prime minister who is prepared to do this only to find out that it is not a fair negotiation.

I do not intend to allow the Israeli state to fall apart physically or morally. The state of Israel is the implementation of the dream of the Jewish people for generation upon generation. We achieved it after enormous effort and the expenditure of a great deal of blood and sweat. There is no way that I will preside in Camp David over the closing of this saga.

This is an unusual moment of truth. Only a sharp shaking of Arafat by the President will give a chance to the process... Arafat has to see that he has a chance to achieve an independent Palestinian state...or the alternative of a tragedy where the US will stand with Israel.

When the people of Israel will understand how far we were ready to go we will have the power to stand together, however tough it will become, even if we will be forced to confront the entire world. There is no power in the world that can force on us collective national suicide.

Peace will be achieved only if there is a real willingness to negotiate on both sides. I am sure the people of Israel and the American people will understand it when the details will be revealed (Ross 2004: 676-77).

For the discussion of this note, I ask questions like these: What negotiating strategies are shown here? What problems has he highlighted? What audience is Barak appealing to? If you had been advising Barak and he had shown you this as a draft, what would you have suggested? As a student reading this note after the negotiation, critique it as a negotiating move. Was putting it in writing a good idea? What do you think of his use of history? Assess his way of using the mediator? Do you have any evidence of what impact

this note had on Clinton or his team? If you were advising President Clinton, what would you suggest as his response to the note? Is there anything in the note that surprised you? What, and why are you surprised?

Third Problem: What is the Relationship of Negotiation to Politics?

Negotiation is one way to deal with differences. Politics and law are two others. I do not dwell on the topic, but I try to point out how negotiation and politics relate during the negotiation process. More precisely, negotiation as an approach and set of techniques is generally subservient to political judgments though both focus on dealing with the differences between the parties. I identify this as a problem because, though it is not difficult to give examples, I do not know of much theory or thinking that gives depth to this topic. It is a topic that I judge to be of considerable importance, particularly because, by focusing on negotiation, we often deprecate political concerns or let them fade. Perhaps for the next iteration of the course I will try to develop my own view and present a lecture on the topic.

Fourth Problem: Bias

In a course like this, every elevation of an eyebrow carries the potential implication of bias. There are several dimensions to this problem.

I am a Jew, with a substantial history of connections to Israel, Israelis and Palestinians; to suggest that I am objective would understandably put students on alert for clues of bias and they would doubtless find them. Moreover, I have strong feelings about the rights and wrongs of this conflict, and as the strength of feelings is a major aspect of this conflict and of the negotiations, trying to hide mine would probably be impossible and, for a course on this topic, bad teaching.

In addition, every student who has taken the course has had a pre-existing view of the conflict, sometimes informed. Among the students, a small number have been Jews and none have been Arabs. An oral survey at the beginning of class has shown that most students have an inclination to sympathy for the Palestinians and to anger at the Israelis for the Palestinian plight. Whether those feelings would be expressed more sharply in an anonymous survey is a fair question.

Where to start the history is a loaded question. With the Biblical accounts? With colonial history? With the history of Jews coming to Palestine in the 1880's? With the Balfour Declaration? The same

sensitivity applies to each selected focus through the course. How to teach about the Arab riots during the Mandate period? How much to emphasize them, how to account for them, how much to focus on their continuing life in the consciousness of both sides? Each choice can be read as suggesting that the professor is offering an interpretation that has relevance to the justice of one side's historical claim.

Much of the writing about this conflict is done by Jews - Israeli, American, and European. In English the Palestinians are very under-represented. They are outweighed in quantity, but also in quality. The Palestinian literature is dominated by tendentious, self-serving accounts; the Israelis certainly have a large supply of that, but they also include a range of dissenters and artful scholars.

I approached this problem of bias in five ways. First, I explicitly identified the issue for the class in the first meeting. Second, as I am critical of both sides for many moves each has made, I made those criticisms clear and often. Third, I sought readings that gave accounts from various vantage points, and then lead the class in critical readings (what is the logic, what are the assumptions, what is the evidence?) of all of them. Fourth, my own approach to this conflict downplays individual errors and tries to focus on the conflict whole: as a system with many players in which a move by A produces a fairly predictable response by B, C, D, and E, which in turn trigger responses among the other players. This approach certainly does not eliminate the finding of fault and the attribution of blame, but it does minimize them. And last I invited as a guest lecturer a colleague from the Political Science Department who is Palestinian and a scholar of labor economics on the West Bank. I did not do this to establish balance, since I consider that idea to be a misleading analogy to an irrelevant physical image, but to emphasize the legitimacy of criticizing both sides. Though one can hardly know what was not said, students in class and in papers were sufficiently critical of both sides to give me some reassurance that these techniques had impact.

Fifth Problem: How to Teach Controversy?

I start each course with the story about two psychiatrists who pass in the hall one morning. One says "Good morning," and the other thinks "I wonder what he meant by that." At some point I also tell the story of a Palestinian doctor who for years told me that he was apolitical and cared only about providing good medical service for his people. One day over lunch in Tel Aviv I asked if he could still maintain his apolitical nature, and he replied: "On your plate there is hummus. In Nablus, that would be politics." Everything is politics, everything is controversy.

Much of what I have set out above speaks to the question of how to teach about controversial topics. But there are a few additional comments to make. First I try to distinguish questions of what-happened from questions of morality. These questions often get intertwined in the form of fault-finding, and I try to separate them. In addition, I try to separate the what-happened questions from the mind-reading questions. As suggested above, I find mind-reading to be a Rorschach exercise to be avoided where possible.

One way to deal with controversial topics is to present both, or all sides, and their supportive evidence, and let the students decide. On most issues this is the approach I take. But I usually select a few topics and spend more time assessing the evidence available and making clear how I come out on the question. I also pick a few topics where I think that the evidence is either absent or inconclusive and emphasize my judgment that we just do not, or in some cases, cannot, know. In an arena of high intensity opinion mongering, I try to legitimate what I think is the inevitability of not knowing.²

Sixth Problem: Does this Approach Ignore Important Questions?

By giving emphasis to specific dialogues, what falls outside the focus? The most obvious answer is that one tends to lose the bigger picture. Because there is no transcript of a full negotiation, but only scenes selected by the memoirists, it becomes harder to look for patterns of behavior that occur throughout the negotiation.

This approach is both an asset and a drawback to the central focus of most negotiation analysis: a cause and effect picture. Thus, questions like what prevented agreement, or what made agreement possible, or why this agreement and not that one, tend to rely on identifying forces (e.g., the role of the Arabs, the failure of the Americans) that are said to have produced the result in question. And it is not easy to see these at work on the micro level, especially if one downplays, as I do, the capacity to understand individual, much less group, motivation. On the other hand, a micro vision of the negotiation often makes vivid the moment at which a turning point occurs, and occasionally – through the choice of words or the sequence of statements – allows insight into dynamics at play.

In sum, I would argue that this course tries to provide an angle of vision not usually used by negotiation teachers and scholars. It is an angle that is evidence-based, open to the complexity of real negotiations, and sensitive to a number of the difficulties that negotiators actually face. It thus helps prepare students – as future observers or negotiators – to do a good job. Or so I hope.

Notes

¹ In the high school class I use as a primary text a document created by an Israeli and a Palestinian that juxtaposes the two narrative histories (Adwan and Bar-On 2003).

² One editor of this essay, Christopher Honeyman, has pointed to “the wisdom embedded in standards of proof...(that) represent varying demands for probability as well as provability, and the judge (if he or she is any good) always knows that he or she doesn’t *really* know” (Honeyman 2008, unpublished comment to author.) I will keep that in mind for the next time.

References

- Adwan, S. and D. Bar-On. 2003. *Learning each other's historical narratives*. PRIME, Beit Jalah, Palestinian National Authority.
- Haniyeh, I. 2001. *The Camp David papers*, originally published in the Palestinian daily *al-Ayyam*. English translation in *Journal of Palestine Studies* 30(2): 75-97.
- Matz, D. 2004. How much do we know about real negotiations? Problems in constructing case studies. *International Negotiation* 9(3): 359-374.
- Ross, D. 2004. *The missing peace*. New York: Farrar, Strauss & Giroux.
- Sher, G. 2006. *The Israeli-Palestinian peace negotiations, 1999-2001: Within reach*. New York: Routledge.
- Zartman, W. 2006. Timing and Ripeness. In *The negotiator's fieldbook: The desk reference for the experienced negotiator*, edited by A. K. Schneider and C. Honeyman. Washington, DC: American Bar Association.