

# Can Theory-Building in the Negotiation Field Contribute to Developments in Dispute Resolution Practice?

By Lawrence Susskind\*

## I. INTRODUCTION

This article presents a series of personal reflections by one of the founders (and still a current director) of the inter-university Program on Negotiation (PON). These views are his own, and informed by his personal experience. Thus, there is not always the kind of documentation the Law Review would include for more traditional research articles. Professor Susskind was involved directly in the discussions that led the Presidents of Harvard, MIT and Tufts to agree to create PON at Harvard Law School. He was the first Executive Director, and has helped to manage the organization for its forty-years of operation. He offers suggestions about the future directions PON might take, not just the story of its past.

### A. *Background*

Almost 40 years ago, the Presidents of Harvard, MIT and Tufts University signed an agreement, allowing them to secure a generous multi-university grant from the William and Flora Hewlett Foundation. The funds were used to create the Program on Negotiation (PON) and to ensure that scholars from their universities would be engaged in socially-relevant problem-solving as they worked to improve the theory and practice of negotiation and dispute resolution. The Presidents agreed that PON would sit at Harvard Law School, although faculty from all three schools have always jointly managed the operation. (Indeed, the first three directors of PON were not Harvard faculty.)

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I am one of the founders of the inter-university consortium, its first Executive Director,<sup>1</sup> and its current Vice-Chair for Pedagogy. In 1983, I had the good fortune to collaborate with extraordinary faculty colleagues including Roger Fisher (Harvard Law School), Frank Sander (Harvard Law School), Howard Raiffa (Harvard Business School), Jeffrey Rubin (Tufts Psychology Department), Deborah Kolb (MIT/Simmons), and others. We brought together more than thirty faculty from different schools and departments along with their advanced graduate students (including William Ury and Bruce Patton). For more than four decades, evolving through subsequent “academic generations” of new faculty from Harvard, MIT, and Tufts (as well as several other Boston-area universities), PON has offered annual executive trainings, maintained a Clearinghouse of Teaching Materials (now called the Teaching Negotiation Resource Center),<sup>2</sup> published the *Negotiation Journal*, supported the preparation of doctoral dissertations, convened interdisciplinary teams of “next-generation” scholars, offered a Great Negotiator Award, and published a steady stream of monographs, commercial newsletters, and books, beginning with Fisher, Ury, and Patton’s *Getting to Yes* (1981), followed quickly by Howard Raiffa’s *Art and Science of Negotiation* and Lawrence Bacow and Michael Wheeler’s award-winning *Environmental Dispute Resolution* (1984).<sup>3</sup>

PON has contributed, directly and indirectly, to numerous improvements in the field of negotiation and dispute resolution. However, I am worried that the strategy we pursued at the outset—to ensure that PON’s theory-building efforts would contribute to improvements in practice—has been abandoned. Instead, PON now relies on a more traditional approach, using individual scholarly publications and faculty consulting to help shape the world of practice. Unfortunately, the theory-building insights generated in this fashion do not seem as powerful or effective as those of earlier years.

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1. Harvard Law School, *Founders Video*, Program on Negotiation (Oct. 10, 2010), <http://pon.harvard.edu>, archived at <https://perma.cc/KFG8-4H5C>.

2. Teaching Negotiation Resource Center (TNRC) is the clearinghouse for all published teaching materials produced by the inter-university Program on Negotiation at Harvard Law School, <https://www.pon.harvard.edu/teaching-materials-publications/>, archived at <https://perma.cc/MTV7-WW8Z>.

3. ROGER FISHER & WILLIAM L. URY & BRUCE PATTON, *GETTING TO YES: NEGOTIATING AGREEMENT WITHOUT GIVING IN* (Penguin Publishing Group, 2011); HOWARD RAIFFA, *ART AND SCIENCE OF NEGOTIATION* (Belknap Press: An Imprint of Harvard University Press, 1985); LAWRENCE S. BACOW AND MICHAEL WHEELER, *ENVIRONMENTAL DISPUTE RESOLUTION* (Springer, 1984).

An additional piece of background information is useful before I describe PON's original approach and how it differs from what is currently happening: In 1991, I founded the Consensus Building Institute, a not-for-profit company committed to providing mediation services in some of the most contentious resource management disputes in America and abroad.<sup>4</sup> So, my experience and point of view are both university-based (i.e., full time faculty in the Department of Urban Studies and Planning at MIT for more than 50 years) AND practice-based (through CBI and a variety of other institutions). In other publications I have called myself a "pracademic" – someone who seeks to span theory and practice.<sup>5</sup>

Only a few current faculty members affiliated with PON define themselves this way. Most present themselves as more traditional scholars, often working from within a single discipline or field. While they all work on important problems, they are not "pracademics." From my standpoint, that means they are not as aware of the likely obstacles practitioners and policy-makers will face as they try to implement new theoretical ideas.

## II. PON'S ORIGINAL APPROACH

We tried to overcome the usual problems of communication between the world of theory and the world of practice by organizing our work in a new way. Before the official founding of PON, a core group of faculty (e.g. lawyers, psychologists, economists, planners and more) began meeting once a month to offer "our best advice" to those in the middle of a difficult negotiation or dispute. We called these sessions "devising seminars." It didn't matter to us where our guests were from, or the scale of the dispute in which they were involved. PON did the inviting; however, once word got out, guests began to call us. In exchange, for strict confidentiality, our guests gave us access to documentation that was not public. In most meetings, we listened to an individual "dispute-haver" talk freely about their situation, the problems they faced and the interests they hoped to achieve— whether from a government, industry, not-for-profit or international perspective.

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4. See Consensus Building Institute, <http://cbi.org/who-we-are>, *archived at* <https://perma.cc/8MBH-YDUK>.

5. Lawrence Susskind, Action-Reflection-Adaptation-Public Learning: Excerpts from the Life of a Pracademic, Larry Susskind in conversation with Shekhar Chandra, *in* CONVERSATIONS IN PLANNING THEORY AND PRACTICE BOOKLET PROJECT, BOOKLET 7 (Association of European Schools of Planning, 2020).

To give an example: Congress created a new position for a “national nuclear waste negotiator”—someone with responsibility for finding an acceptable site for America’s high level nuclear waste. Our client, the person appointed by Congress inheriting this intractable problem, was eager to think through entirely new options. He knew he was going to have to negotiate with everybody, since he did not have the power to impose a solution. The brainstorming that followed in our Devising Seminar allowed all of us to think out loud, which on occasion directly informed the actions our visitors subsequently decided to pursue. It also grounded our theory-building efforts. Every one of those sessions gave us first-hand insights into an important conflict somewhere in the world.

For many of our visitors, their conversations with us were the first time they felt comfortable stepping back from the ongoing tumult to reflect on their situation in a fresh way. They did not have to worry about what their staff or their “back table” might say.<sup>6</sup> After several years of such sessions, our core faculty group began to develop a shared vocabulary and a set of investigative and problem-solving strategies. Our collective efforts allowed us to theorize across a great many situations, while making proposals to our guests that took account of the very specific context or circumstances they described.

For me, there were at least three important realizations that emerged from several years of these conversations between theory and practice. These have shaped my thinking and appear in various forms in the negotiation and dispute resolution writing that still emerges from many of us at PON. These insights are still key to what we teach in our university classes and present in PON’s Executive Trainings.

### A. *The Inside-Outside Problem*

First, what Roger Fisher called “the inside-outside” problem (i.e., how to handle and sequence internal and external negotiations) turned out to be much more important than I had imagined.<sup>7</sup> Almost every person we talked with was highly constrained in what they could offer their negotiating counterparts, and how they might “solve” the negotiation problem they came to talk to us about. That is,

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6. For a discussion of back tables see: L. SUSSKIND, *GOOD FOR YOU, GREAT FOR ME: FINDING THE TRADING ZONE AND WINNING AT WIN-WIN NEGOTIATION* (Public-Affairs, 2014).

7. R. Fisher, *Negotiating Inside Out: What are the Best Ways to Relate Internal Negotiations with External Ones?*, 5 *NEGOTIATION JOURNAL*, 33–41 (1989).

they had no choice but to honor the demands of their “back tables,” even when that may have unreasonably limited the offers they were making to their counterparts. They were forced to maintain ongoing internal negotiations, while simultaneously pursuing what they hoped would be a “winning strategy” with their external partners. The need to sequence these negotiations was exhausting. The time we spent soaking in the overwhelming importance of the inside-outside problem changed all of our thinking. We realized that brilliant proposals would not be accepted by the other side unless we offered them the equivalent of a “Victory Speech” they could use to convince their back table to accept our proposal.<sup>8</sup>

### B. *Appreciating the Interests of the Other Side*

Second, I was surprised that our visitors spent little time thinking about the interests or underlying perspectives (not the stated positions) of their negotiating counterparts. They admitted failing to probe beneath spoken demands in search of underlying interests. When we tried to help them map the Zone of Possible Agreement (ZOPA)<sup>9</sup> in their case, by postulating both “sides” Best Alternatives (BATNAs)<sup>10</sup>, they were often unable to realistically estimate the other side’s BATNA, or their Reservation Value. Often, we had to point out that merely re-stating their arguments, no matter how eloquently, was not going to lead the other side to agree if their most important interests were not met. Only by searching for “value creating” opportunities —my third realization—would agreement be possible.<sup>11</sup>

### C. *Creating Value*

Often, our visitors were concerned about “losing” or “failing.” This led them to imagine their situation in purely zero-sum terms. We tried to help them explore creative options that would allow them to meet the interests of their negotiating partners, as well as their own, by creating more value. For me, the hunt for value creating opportunities continues to be a dominant theme in all my scholarly

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8. Lawrence Susskind, *GOOD FOR YOU, GREAT FOR ME: FINDING THE TRADING ZONE AND WINNING AT WIN-WIN NEGOTIATION* (PublicAffairs, 2014).

9. Zone of possible Agreement (ZOPA) is well explained in H. RAIFFA, *THE ART AND SCIENCE OF NEGOTIATION*, op. cit.

10. BATNA was first explained in R. FISHER ET. AL., *GETTING TO YES*, op. cit.

11. Harvard University, *Program on Negotiation Digital Library: Value Creation*, YouTube (Oct. 7, 2014) (L. Susskind explains value creation), <https://www.youtube.com/watch?v=KE3CU0eiilo>, archived at <https://perma.cc/H9MB-HZF2>.

work, and in my personal quest to improve my theory of negotiating practice. If you look at PON's key theoretical contributions over the past forty years, I would argue that distinguishing interests from positions, managing back table pressures, investing in value creating opportunities, preparing by appraising the other side's interests - realistically, and imagining helpful moves behind or away from the negotiating table - to name a few - emerged from those PON faculty dinners with practitioner guests. The interactions allowed us to help our guests "hear" our theoretical ideas once they knew we understood the scope and difficulties of the challenges they faced.

When we met with these visitors, we immediately immersed ourselves in their organizational and institutional details. It did not matter whether we were talking about diplomatic, business, environmental, or some other kind of negotiation; we had to put ourselves in their shoes. This required asking a lot of questions. If we did not take their context seriously, our advice would probably not have been relevant and might well have been ignored. At the same time, by participating together every month, shifting from context to context, our team of colleagues began to see patterns that confirmed our emerging theoretical suppositions. We were then able to ground our subsequent debates and discussions of these concepts and strategies in our practical observations.

Today, when I read an academic colleague's book, knowing only what's on the page, I have to wonder whether they got the story right. Did they learn enough about the context in which they were working to understand the dynamics involved? Did they confirm their hunches and suppositions by talking directly to multiple individuals with first-hand involvement? Now, I only feel I know what is going on in a negotiation, when I am a part of a team that has cross-examined a range of negotiation participants. I need to hear the whole team's reactions, as I did when we spoke with our PON guests. As I have said, many of the key theoretical ideas for which PON is best known emerged from our collective efforts to be helpful to someone facing negotiation difficulties. We found out pretty quickly whether our individual theoretical insights were useful. It was our team's cross-examination of the visitors, paired with our follow up to find out what happened when our visitors tried to use our advice, that gave us confidence that our theoretical prescriptions were relevant.

### III. PON HAS ABANDONED ITS ORIGINAL APPROACH

PON has not maintained collective interactions with the world of practice for many years. We no longer host regular Devising Seminars with the same set of PON faculty attending. As a result, I am afraid we are no longer exploiting the power of direct conversations between theory and practice. Nor are we learning from each other the way we used to. Our colleague, Thomas Schelling, was the first to note the “dying faculty seminar.” Now, each of us does our own work and draws our own (disciplinarily-bound) conclusions. We mostly publish our ideas for separate (academic) audiences, but not for each other, and not for practitioners.<sup>12</sup> We no longer seek to build collective PON-wide insights the way we used to.

Many times in the early years of PON, Roger Fisher would use his “Circle Chart” (Figure 1)<sup>13</sup> to get all of us to keep straight what we were hearing from our guest (*identify the problem*), what our theoretical interpretations might be (*analyze the problem*), what our personal insights led us to suggest about possible solutions in that situation (*possible approaches to the problem*), and what our collective short-term prescriptive advice would be for our guest (*suggested action steps*). Having to reach agreement among the team, each step of the way, led in my view to PON’s theory-building successes. You can see this in the long-term popularity and continued application of the ideas presented in *Getting to Yes, The Art and Science of Negotiation* (Raiffa), *When Talk Works* (Kolb), *Negotiating on Behalf of Others* (Mnookin and Susskind), *3D Negotiation* (Sebenius and Lax), and other PON theory-building volumes.<sup>14</sup> We need to re-institute

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12. The one exception to this is the continued publication of the *Negotiation Journal*. This is a one-of-a-kind journal that provides a peer-reviewed outlet for practitioners who want to reflect on their experiences in conversation with theory-builders and scholars who want to share their findings with practitioners and policy-makers. The *Negotiation Journal* is published by PON in conjunction with Wiley (Online ISSN: 1571-9979). It is an international, multidisciplinary journal that seeks to advance the theory, analysis, practice, and instruction of negotiation, mediation and conflict resolution. Readers have access to a wide range of case studies, instructors reports on their pedagogical strategies, essays on state-of-the-art practices, and book reviews.

13. R. FISHER ET. AL, *GETTING TO YES: NEGOTIATING AGREEMENT WITHOUT GIVING IN* 70 (Penguin Publishing Group, 1986).

14. For example, H. RAIFFA, *THE ART AND SCIENCE OF NEGOTIATION*, op. cit.; DEBORAH M. KOLB & ASSOCIATES, *WHEN TALK WORKS: PROFILES OF MEDIATORS*, (1994); *NEGOTIATING ON BEHALF OF OTHERS: ADVICE TO LAWYERS, BUSINESS EXECUTIVES, SPORTS AGENTS, DIPLOMATS, POLITICIANS AND EVERYBODY ELSE* (ROBERT H. MNOOKIN & LAWRENCE E. SUSSKIND WITH PACEY C. FOSTER eds., 1999); DAVID A. LAX & JAMES K. SEBENIUS, *3-D NEGOTIATION: POWERFUL TOOLS TO CHANGE THE GAME IN YOUR MOST IMPORTANT DEALS* NEGOTIATION (2006); MICHAEL WHEELER, *THE ART OF NEGOTIATION: HOW TO IMPROVISE AGREEMENT IN A CHAOTIC WORLD* (2013); ROGER

PON's collective interaction with the world of practice to re-ground our theory-building efforts. And, we need to re-discipline our theory-building by working on shared "cases" with actual clients—ensuring that we try to reach agreement at each step around the Circle Chart.

### A. *Dissecting the Difference*

What are the key assumptions we used to make in the way we thought theory and practice could be linked, and what are the assumptions that seem to be in place now? We used to believe that theoretical insights would only be considered useful in practice if they were born of and fitted to a specific institutional context. We accomplished this by collective first-hand interactions with actual dispute-havers who were prepared to tell us about their situation, as long as we maintained confidentiality. The way these sessions were organized gave us access to materials and insights that were not publicly available. We were also able to explore the relevant context and institutional dynamics from the inside, from at least one party's point of view. Later on, we sometimes offered our "good offices" to both or all sides (that is, we agreed to act as informal advisors or even intermediaries) in an effort to spark voluntary dispute resolution efforts among the parties.<sup>15</sup> We assumed that person-to-person interaction with at least one (and possibly more) of the parties involved in a negotiation was necessary for our ideas and suggestions to be well grounded and taken seriously.

We rarely mailed copies of our articles, books, blogs, or lectures to our guests ahead of time, and we tried not to quote ourselves during these conversations. We worked anew on each case. While PON has always offered Executive Training to many thousands of mid-career individuals, we were not able to talk to each attendee at those sessions about the negotiations that concerned them most. By contrast, in our Devising Seminars, all of our attention was focused on

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FISHER & DANIEL SHAPIRO, *BEYOND REASON: USING EMOTIONS AS YOU NEGOTIATE* (Penguin Books, 2006).

15. Michele Ferenz & Lawrence Susskind, "*Good Offices*" in *a War-Weary World: A Review of the Practice and Promise of Track 1 1/2 Diplomacy* (Harvard Law School, Program of Negotiation, Working Paper, 01-1, 2001); also teaching video distributed by the Consensus Building Institute and the Program on Negotiation, 2000. More recently, I have encouraged parties stuck in various kinds of conflicts to let us arrange various kinds of Devising Seminars. See Lawrence E. Susskind & Danya Rumore, *Using Devising Seminars to Advance Collaborative Problem-Solving in Complicated Public Policy Disputes*, 31 *NEGOTIATION JOURNAL* 223, 223–235 (2015).



the situation described by our guest. We brought our collective attention to a single visitor's problem. We worked together to generate helpful prescriptive advice.

Over time, PON has allowed individual faculty consulting to substitute for the joint problem-solving sessions I have described. So, while we used to assume that the most fruitful connections we could make between university-based theory building and field-based practice involved our team of faculty volunteering to provide "free" face-to-face problem-solving assistance to a negotiator seeking our advice, we stopped doing that.

Now, we assume that individual faculty scholarship, transmitted via books, journal articles, op eds and blogs, will find its way to the people who need assistance. We assume that the PON Executive Education programs will provide enough general (as opposed to tailored) advice to those who might need it. And, we assume we will read each other's published work and be influenced appropriately (without collective conversations).

Over the years, members of the PON core faculty have created separate consulting groups to offer tailored dispute resolution training and provide case-by-case coaching and assistance that can not be readily provided (for a fee) through our university-based research/teaching center. Roger Fisher created the Conflict Management Group (CMG) and the Conflict Management Clinic. Those organizations evolved into CMPartners. James Sebenius and David Lax spun off the private consulting firm of Lax Sebenius, LLC. I created the not-for-profit Consensus Building Institute to offer assistance to public sector entities involved in a range of conflicts. There are still others like JAMS/Endispute, Triad Consulting Group and The Mediation Group that have emerged with the help of PON-related faculty.<sup>16</sup>

These firms have definitely had a positive impact on the world-at-large—either by offering tailored training or hands-on negotiation/dispute resolution assistance. But, whatever they have learned from their experience has stayed mostly in their separate organizations. While some of these individuals continue to be part of PON Executive

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16. CMPARTNERS, <https://www.cmpartners.com/>, archived at <https://perma.cc/NU6C-8AGH>; LAX SEBENIUS, LLC, <https://www.negotiate.com/>, archived at <https://perma.cc/4ZKD-93BX>; CONSENSUS BUILDING INSTITUTE, <https://www.cbi.org/>, archived at <https://perma.cc/6M3M-YEPJ>; JAMS/ENDISPUTE, <https://www.jamsadr.com/>, archived at <https://perma.cc/LA5T-J4VE>; TRIAD CONSULTING GROUP, <https://www.triadconsultinggroup.com/>, archived at <https://perma.cc/V66H-DAVV>; THE MEDIATION GROUP, <https://www.themediationgroup.org/>, archived at <https://perma.cc/97A2-8HES>.

Education or teach at one of the PON-linked universities, there is no pooling of their knowledge in an effort to generate stronger theory. Whether we like to admit it or not, these consulting operations sometimes compete with each other. PON no longer has the synthesizing role or responsibility it once had: to enhance grounded theory-building and strengthen theory-practice connections.

#### IV. MEASURING SUCCESS

How can a university-based collective like PON know for sure that it is contributing to improvements in negotiation and dispute resolution practice? At a small scale, PON's direct interactions (through Devising Seminars and the like) appear to have helped (at least in the eyes of the guests with whom we interact). It's not clear, though, how to measure the impacts of PON—especially given that its current approach relies on publications and Executive Training. PON, like other university groups, hopes that promulgating new ideas in accessible books and articles, offering mid-career training, and having faculty work individually as advisors or consultants for interested clients (especially the way William Ury has)<sup>17</sup> will strengthen the links between theory and practice and help improve the results of all kinds of dispute resolution efforts. That implies we should, at least, count publications (and their distribution), registrations at mid-career trainings, and official faculty reports about their external consulting activities. There are probably more than 100 books and monographs published by PON-affiliated faculty (to say nothing of the many dozens of doctoral dissertations funded by PON). There is no easy way to count, though, the number of spin-off articles that have appeared in a multiplicity of peer-reviewed journals. Just to give one example, PON's own *Negotiation Journal* has published more than 150 issues, including over 1,000 articles, over the past 38 years.<sup>18</sup>

However, we do not know which researchers, trainers, lawyers, business leaders and others who bridge theory and practice have read

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17. See DR. WILLIAM URY, <https://www.williamury.com/>, archived at <https://perma.cc/4JNK-NEEH>; William Ury, WIKIPEDIA, [https://en.wikipedia.org/wiki/William\\_Ury](https://en.wikipedia.org/wiki/William_Ury), archived at <https://perma.cc/753F-35HB>.

18. Personal communication with Professor Joel Gershenfeld and Dr. Sylvia Glick, Editor and Managing Editor of *Negotiation Journal*, May 21, 2022.

or been influenced by these articles. So-called “Impact Factors” provided by the publishing industry count the number of times a publication has been cited in another publication.<sup>19</sup> That has nothing to do with their impact on practice.

In general, these are all “input measures;” they don’t really paint a picture of PON’s impact on the world-at-large. To measure “outputs” or “outcomes,” we need metrics that allow us to attribute the results of negotiations of all kinds to the ideas or suggestions generated by PON-affiliates, presented at PON Executive Trainings (which have served more than fifty thousand individuals)<sup>20</sup> or implemented by PON faculty consultants or the organizations they manage. Unfortunately, there is no way to do that. Especially, because success is often in the eyes of the beholder. There would surely be different evaluations of the same negotiation (and the same advice they received) from the standpoint of different participants.

We can, however, go back to drawing on solid impressions. We have the direct comments provided by dispute resolution and negotiation practitioners who attribute their success to their PON training or the ideas and strategies they gleaned from PON publications. That is, they indicate that they have switched what they might have done because of what they learned from or at PON. We have decades of feedback forms from PON Executive Trainings and course evaluations from PON faculty that indicate participants intend to take PON’s lessons on board. As mentioned above, PON sponsors the Teaching Negotiation Resource Center (TNRC), or what was originally called the PON Clearinghouse. This is the entity that currently distributes more than 150 role-play simulations, exercises and case studies that trainers and teachers use to present the theoretical ideas developed at PON. TNRC has been distributing these teaching materials at cost for the past 38 years. TNRC estimates that it has distributed at least 2.5 million copies of specialized teaching materials over the past three decades.<sup>21</sup> All of these learners have had a

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19. “The impact factor (IF) is a measure of the frequency with which the average article in a journal has been cited in a particular year. It is used to measure the importance or rank of a journal by calculating the times its articles are cited.” University of Illinois Chicago, *Measuring Your Impact: Impact Factor, Citation Analysis, and Other Metrics: Journal Impact Factor (IF)*, SUBJECT AND COURSE GUIDES (Apr. 17, 2022, 11:04 PM), <https://researchguides.uic.edu/if/impact>, archived at <https://perma.cc/J8VK-UVKU>.

20. Personal communication with Gail Ordeneal, Marketing and Communications Director, PON, May 23, 2022.

21. Teaching Negotiation Resource Center (TNRC) at Program on Negotiation at Harvard Law School. See [www.pon.harvard.edu/teaching-materials-publications](http://www.pon.harvard.edu/teaching-materials-publications),

chance to hear and try out what PON offers by way of theoretical insights and prescriptions. Many of the best-known negotiation training institutions around the world have ordered the same teaching materials from TNRC for many years. While we do not know how well the learners involved have applied what they were taught or learned at PON, or whether the outcomes they achieved in practice were positive, the impressions we have gathered suggest that both have occurred. The continued demand for our teaching materials (especially those that focus on problems in practice) suggests that they are meeting the needs of those who become practitioners.

We also have reports from practitioners who have tried to teach others what they learned from us. PON faculty and their affiliated firms offer tailored training for agencies, companies, communities, and organizations around the world. The leadership in these settings has decided they want their staff and clients to know what they learned about negotiation from PON. Many of the clients of the Teaching Negotiation Resource Center are professional trainers (not academic instructors teaching university courses) offering advanced instruction inside companies and agencies of all kinds. So, while students in university-based classes eventually assume leadership positions in industry, government and all kinds of communities, current practitioners—even at very senior levels—are adding to what they know and what they can do as negotiators by drawing on PON teaching materials. In the past few years, independent online training spun off by PON-affiliated faculty—either through their university or independent online providers, but not offered directly by PON—are also expanding the reach of PON's theory-based content.<sup>22</sup> While this does not prove that the negotiation ideas and strategies generated at PON in the early years as well as at present are the primary cause of the successes that practitioners are having, from the attestations we have collected, it appears they are.

The research published by and featured at PON (especially through sub-groups of faculty with shared research interests) continues to grow. The Great Negotiator Award, offered by PON to outstanding policy-makers and practitioners every year or two,

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*archived at* <https://perma.cc/X2ZN-5GMN>; Interview with Lara SanPietro, Director of TRNC, in Cambridge, Mass. (May 22, 2022).

22. For example, MITxPRO offers five online negotiation courses that I developed (The Mutual Gains Approach to Negotiation: The MIT Way; Entrepreneurial Negotiation; Health Care Negotiation; Socially-Responsible Real Estate Negotiation; Influence and Power in Negotiation; Cybersecurity for Critical Urban Infrastructure). See [executive-ed.xpro.mit.edu](https://executive-ed.xpro.mit.edu), *archived at* <https://perma.cc/V9JB-984X>.

generates detailed accounts of successful practice, often tying these results to the theoretical insights shared through PON. The library of Great Negotiator video interviews with successful practitioners provides evidence that the theoretical ideas presented by PON-affiliated faculty have informed practice at the highest levels of government and industry.<sup>23</sup>

So, the only reliable metrics we have to gauge the impact of PON-generated theory on negotiation practice are far from sufficient. Input measures stand in for quantitative measures of output or outcome. Numbers of people who have been trained or educated in PON-generated theories of negotiation are substantial, but how those individuals have used what they learned is only communicated to us informally by the interested parties themselves, not by independent evaluators. The most successful practitioners appear to rely on the theoretical ideas and practices originating at PON but determining whether it was these ideas or the innate skill of the practitioners involved (or something else) that account for their success would require double-blind experiments we have no capacity to undertake. In contrast, I am certain that I saw direct positive impacts in the early days of PON when the faculty team met with individual senior decision-makers who wanted help with difficult negotiations, spoke with us in confidence, explored problem-solving options they were not likely to brainstorm with their own back tables, helped us understand enough about the context in which they were working to have confidence we were offering useful prescriptive advice, and followed up with us so we knew what happened (and whether our advice turned out to be useful).

## V. RECOMMENDATIONS TO PON MOVING FORWARD

I have three recommendations. First, PON should keep pushing to generate new insights and innovative approaches to negotiation and dispute resolution, particularly in cross-cultural and multi-party situations.<sup>24</sup> Second, PON's research and theory-building should remain grounded in actual case studies of practice. Recent statistical studies of decision-making experiments involving students have grown in popularity in the research community, but they are rarely

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23. See James K. Sebenius, *What Can We Learn from Great Negotiations?*, 27 NEGOTIATION JOURNAL 251, 251–56 (2011).

24. Lawrence Susskind and Larry Crump, *Multiparty Negotiation*, Sage, 2008 and Jeswald Salacuse, *THE GLOBAL NEGOTIATOR: MAKING, MANAGING AND MENDING DEALS AROUND THE WORLD IN THE 21ST CENTURY* (St. Martin's Press, 2002).

compelling to practitioners and policy-makers. Third, PON should renew its offer to assist those in the midst of difficult conflicts by inviting them to participate in confidential Devising Seminars, at which a team of interdisciplinary faculty commit substantial time and effort to working with a visitor to generate useful prescriptive advice.

A. *Continue to Generate New Insights and Innovative Approaches*

In our deeply divided, highly polarized world, the need for sound diagnoses of the causes of escalating conflicts, coupled with better ways of responding to them, has never been more urgent. Scholars in the negotiation field should recommit ourselves to highly applied theoretical work. We need to focus on problems “of” practice and “in” practice. Too much time has been spent on abstract theoretical questions of interest mostly to scholars.

I think there are many negotiation theory-builders (not just at PON) who can offer assistance in a wide variety of practice-linked situations, in a socially-responsible, clinical fashion. While I am certain that PON’s current teaching and research are helpful, I do not think we are having as much of an impact as we once did. In part, this is obvious given the terrible conflicts that continue to engulf us worldwide. While there is always organizational resistance to doing things in new ways, the best means of overcoming such resistance is through collaboration between applied theory-builders and practitioners. It is hard for new (and better) approaches to break through, even when prevailing practices are not working very well, unless those who can best use the new ideas are open to them. There are many theories about why this is true.<sup>25</sup> For me, people in positions of power and responsibility are most likely to try doing things in a new way if they have a hand in developing them, and have reasons to trust the advisors offering them assistance.

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25. While there have been hundreds of books written about change management, I still find Kurt Lewin’s Change Management Model, presented in the 1940’s, as the most compelling. He posits three distinct stages in the process of change or organizational reform: unfreeze-change-refreeze. The first stage involves creating the motivation to change in the minds of everyone involved (unfreeze). Then, through effective communication and empowerment, participants can embrace new ways of working (change). Finally, the process ends when the organization regains a sense of stability (refreeze). This becomes the starting point for the new round of change. See K. LEWIN, *RESOLVING SOCIAL CONFLICTS: FIELD THEORY IN SOCIAL SCIENCE* (American Psychological Association, 1st ed. 1997).

### B. *Build on Actual Case Studies to Create Bespoke Training*

Practice can be strengthened, and prevailing practices can be changed through independently produced, well-documented case studies linked to the development of tailored training programs. Such training needs to focus on organizational, not just individual, capacity-building.<sup>26</sup> PON and similar organizations need to help decision-makers create world-class negotiating organizations.

I do not think scholarly research on negotiation and dispute resolution that relies on students as samples in various experimental research studies, can have nearly the impact on key decision-makers that well-documented case studies of actual practice, undertaken by experienced interdisciplinary faculty in close interaction with practitioners, can have. We need to resume preparing detailed case studies and turning them into teaching simulations based on our direct involvement with parties in high profile conflicts. In my view, only the prescriptive advice (and theory) derived from the lessons we pull from our partners' direct experience is likely to be taken seriously. Moreover, our general findings must be fashioned into bespoke learning strategies—not large executive training programs that repeat the same materials for general audiences. We need a group of PON faculty affiliates—representing PON's interests and not their own—to engage in a hands-on way with dispute-havers who seek confidential advice on how to handle difficult negotiations more effectively. We can work with them to highlight the prescriptive lessons that should be drawn from new case studies.

### C. *Make a New Commitment to Organize Devising Seminars for Invited Guests*

At present, PON “spin-off” consultancies (which continue to make real theory-practice connections) are not allowed to act in PON's name. The learning that cumulates via these consulting efforts rarely makes its way back into the shared knowledge base at PON. These experiences do not help PON reformulate prescriptive theory on a continuing basis. They may add to what the individuals involved teach in their own classes and training sessions, but they do not add to what PON as a whole, and thus the field, knows. As a result, PON has been recycling many of the same ideas we generated several decades ago. While new ideas and insights have emerged,

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26. HALLAM MOVIUS & LAWRENCE [RESTORE REST OF NOTE - MOVIUS AND SUSSKIND, BUILT TO WIN, HARVARD BUSINESS SCHOOL PRESS

they have not been subject to careful group scrutiny or linked together. They cannot be presented as PON's work, and we need to change that.

In the next decade, applied theory building at PON can contribute more to improvements in practice if we move back to the model of direct faculty and staff engagement with problem-havers in the field, the way we once did.

FIGURE 1

