

Book Review

Thierry Garby, *Agreed!: Negotiation/mediation in the 21st century*

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Thierry Garby, *Agreed!: Negotiation/mediation in the 21st century*, ICC Product No. 777E, 2016 Edition 9 (also available as an e-book), 256 p.

Last February at the ICC International Commercial Mediation Competition 2016 in Paris, Thierry Garby released his latest book on mediation: *Agreed!. Agreed!* is a book on how to find agreement. The author, one of world's best-known mediators, has been studying negotiation and mediation for over 30 years. Throughout the book, Garby uses the terms negotiation and mediation interchangeably as he argues they are the same thing: a process to reach amicable agreement. The book is easy to read and synthesises key concepts of negotiation and mediation; it emphasises dispute resolution, especially in the civil and commercial fields. It aims to share Garby's theoretical and practical insights with professional lawyers, corporate counsel, business managers and mediators. His devotion to his practice is reflected in his writing. He discusses his own experiences, visions and techniques; he refers to well-known texts and summarises important insights and approaches from psychology on how to negotiate/mediate successfully. Garby stresses his openness to new methods that can improve outcomes and he invites the reader to do the same: 'We ought to use all the tools available to us to reach the best possible solutions'. There is a great diversity of styles and strategies across the world of mediation; there is always more to learn as the training of a mediator is never over. He suggests that readers use different philosophies and techniques as tools.

In his conclusion, Garby suggests that his explanations of concepts and methods might be too long for practitioners and too superficial for a theoretical and scientific perspective. I think he is right. To get the most out of this book, one should see mediation and negotiation

through the eyes of the author so that Garby's depth of theoretical and practical experience can be deployed and to learn how to negotiate and mediate effectively. As Thomas J. Stipanowich states in his preface to the book:

'In the midst of today's continuing Quiet Revolution in Dispute Resolution, we are confronted with many different notions about styles, strategies, tactics and techniques in the management of conflict. The special contribution of this book is to offer a very personal but informed and compelling view "from the trenches" by a seasoned legal counsellor/advocate and respected mediator and trainer who continually thinks about and reflects on his experiences, and encourages and equips us to do the same.'

To use the book in practice, Garby walks readers through the process of negotiation and mediation from start to finish in a series of logical steps. He starts by articulating the difference between conflict and dispute; he asks his readers why it is important to know how to perform negotiation and mediation. He explains when to offer negotiation/mediation, how to prepare for mediations and, inter alia, how to deal with cultural differences. Garby offers insights from a wide variety of sources: he suggests frameworks, strategies and tactics for negotiation/mediation from existing literature, from psychological methods (which can help in finding agreement) and from neuroscience (helping us to better understand the role of emotions in our behaviour). Garby incorporates these diverse sources into his own philosophy and tries to provide his readers with new ideas and perspectives.

Throughout the book the author stresses the importance of dealing with and using emotions as constructive elements in conflict resolution: 'For us negotiators/media-

tors, emotions should take the first place in our preoccupations', and 'If we were automobiles, emotions would be the gas and the engine, i.e. what give energy and movement'.

What is new? When Garby describes different approaches to mediation, he advocates what he calls the 'Resolvers' method (a term he coined: his teaching and mediation company is called Resolvers). The Resolvers method is based on starting with positive emotions as opposed to what he calls 'the confrontational method'. Garby states that most mediators are taught to begin mediation with confrontation; parties typically make an opening statement describing their position. In Garby's eyes this method generates negative emotions; he tries to achieve the opposite: 'So instead of starting from positions and then have the parties admit their interests at the end of a painful process, you will have made them naturally emerge with positive emotion the interest they defended in the past and they will be more ready to disclose their interests for the future'. His preference for the Resolvers method resides in his belief that in this way persistent emotions will be seen less as difficulties to be worked around but rather as core components of interests that need to be satisfied to achieve positive outcomes.

Garby is one of the world's most experienced mediators; he has channelled his 30 years of practical and theoretical experience into a book that is an useful guide for those who want to learn more or refresh their negotiation/mediation knowledge and skills.

New releases

Other new literature of interest:

- MacDuff I. (Ed.). (2016). *Essays on Mediation: Dealing with Disputes in the 21st Century*. Alphen aan den Rijn: Kluwer Law International.
A collection of reflections by experienced mediators on the future of mediation. Of interest to policymakers, mediators and scholars.
(CMJ: Insight into mediation practice. Recommended).
- Puett M. & Gross-Loh C. (2016). *The Path: A New Way to Think About Everything*. London: Penguin.
Reflections on philosophers from Confucius to Zhuangzi.
(CMJ: Not so innovating as the title suggests).
- Gilovich T. & Ross L. (2016). *The Wisest One in the Room: How To Harness Psychology's Most Powerful Insights*. London: Oneworld Publications.
Serious psychology made accessible.
(CMJ: Great insights into the psychology of conflict and more. Highly recommended).
- Shapiro D.I. (2016). *Negotiating the Nonnegotiable, How To Resolve Your Most Emotionally Charged Conflicts*. New York: Viking.
Introduction of a new paradigm for resolving conflict.
(CMJ: Not as innovating as the title suggests).