Proposal Negotiation

HRM 595

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Abstract

This piece of research is focused on proposal negotiations. It describes negotiations as a daily used tool in the day to day lives of individuals to either reap some sort of benefits or find justice for themselves. To take a closer look at the negotiating process, divorce settlements have been used to understand how negotiation is helpful and used in such a situation. Furthermore, a literary review of the different works done by previous authors on this subject has been presented who present different views about how the negotiation process is conducted in the divorce settlement. Carrying on, this work also lays out a methodology for how the research would be conducted on the role of the negotiation process in divorce settlements.

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**Introduction**

If a glance is put on the daily lives of people, it can be seen that there is a wide variety of use of negotiations happening. These revolve around wanting to gain, keeping something that is already there and not trying to lose anything. In most instances, negotiations are a necessary tool in order to come to a final conclusion regarding any certain thing (Ahammad, et al, 2016). Also, how long a negotiation takes also depends on the type of negotiation being conducted. Some can be finished in a matter of hours while others take much longer. and can even extend for months or years onwards (Flynn and Freiberg, 2018).

In order to know how valuable negotiation as a tool is and what are the components or steps that are taken in the process of negotiation, a closer look is to be placed upon cases of divorce. Sample studies of divorce cases can be used to get an understanding of how the negotiation process works and what is entailed within it.

**Research Purpose**

The purpose of this research is to analyze how the divorce process is conducted between the case of couples that are divorcing. For this, a deep look at the different levels in the process of negotiation and any hindrances that present themselves during the negotiation process need to be looked at. Other issues that this research paper will focus on the basis for the rise of these complications such as issues in property and settlement. The main theme that is circulated in this paper is to look at the different components of the negotiation process and their importance and how this process will differentiate based on the situations it is used in (Donohue, et al, 2016).

**Literature Review**

The negotiation process in divorces are complex and involve a multi-layered approach. A deep understanding of the different psychological themes being played in the divorce is needed to be understood to be able to work out a winning argument. Research suggests that fights and disagreements can start within a negotiation process based on trivial matters. These could include division gifts and furniture or the ownership of the pet. These things have a lot of psychological attachment to people and are a great cause for the breakdown of any negotiation process. Furthermore, it has been seen that while a lawyer is trying to get his clients wishes in one area he might as well be losing their interest in other areas by having a weaker bargaining position. This all comes back to the fact that things or beings with whom there is a psychological and sentimental relationship cannot be easily divided among two individuals and no lawyer is fully able to accomplish this task. In the negotiation process, it is imperative to understand the emotional parts of the issue at hand, the people involved and their connections to each other. All of this plays a major role in whose favor the negotiation process turns out to be (Allen and Hawkins, 2017). Research has shown that a successful negotiation process also involves a deep understanding of the laws and the facts of the case, what either person want to get out of the negotiation process, the opposing party and the finally the judge, who will oversee the whole negotiation process. Other pieces of work suggest that a negotiation process should never start when the representative of both parties involved in the divorce process is not fully aware of the facts and does not fully understand the needs and goals of the respective parties that they are to represent. This way the lawyer or the representatives of the people involved in the divorce process would be able to get not just a win but will have the negotiation process favor them the most. This is supported by psychologists as well by referring to the fact that the success of the negotiation process is not seen by how much money or items a person receives but more importantly how he or she won those things. To a person, the negotiation process is more important than the actual result. This is because they want to have their issues and disagreements sorted out in ways that make them feel that justice has been done. In this matter, the negotiation process is really important. Other important aspects of the negotiation process that have been highlighted in research are the goals of the parties involved being in conflict with the law, judicial practice or the representative's ethics. Also, ethical obligations need to be met in a negotiation process and it should be made clear that no use of false claims or acquisitions would be accepted because they are methods of only harassing people. Any form of emotionally charged and questionable tactics are not accepted or appreciated in a negotiation process. Further work done on negotiations in divorces suggest that the negotiation is always done by keeping the mind the bigger picture and not be bogged down by short term gains. This picture is developed by having a comprehensive knowledge of the situation at hand and the parties involved. In order to acquire the results in the bigger picture, it is important for the people involved to structure their negotiation process as such that it guides the whole process towards the required (Rojot, 2016). This way negotiations are also helpful in mapping out a pathway for the settlement process to take in order to achieve the results that benefit either or both the parties involved in the divorce process in the larger sense. In order to have a strong negotiating process, questioning everything involved in the divorce process is essential especially the facts and demands of each individual participating in the divorce process. This way the negotiating process would be able to continue without any surprises from either and would let it become a fluent method for reaching a settlement. Questioning would also enable representatives to be aware of the lies told to them by their clients. By questioning every aspect of information, a greater analysis of the facts, the law and how reasonable claims being presented in this negotiation process are in reality. This will also stem out what either wishes to gain and is willing to lose in order for them to have those gains. Knowing this in a negotiation process is very important and can be one of the factors that will help win the negotiation process for either side. Other works of research have shown that there is even a possibility of implementing a theory of bargaining in the negotiation process (Raei, et al, 2017). Under this theory, the implications of the alternative legal rules have on the negotiation between the two individuals involved in the divorce settlement. This theory can also be used in combination with the factors that have been discussed above as a way to determine the behavior of the people involved in bargaining in the negotiation process. This way how the impact would be of the alternative rules and regulations would be in coherence with the bargaining behavior of the individuals involved in the negotiation process can be measured. But no study has found any real evidence if the theory of bargaining will be able to predict the outcome of a negotiation process by considering the different legal rules and regulations and how they would impact on the result of the negotiation process. But what has been found are five factors that studies suggest that are important components and determinants in bargaining during a negotiation process and how they can impact the result of the negotiating process. The first factor is the preference of divorcing individuals (the parents). The second factor of the determinant of the bargaining process is the endowments that are present under the law for bargaining through which a certain portion is indicated for each party under the law and which will be enforced if the parties do not complete negotiations and come up with a settlement for the two parties involved. The fourth factor is the level of uncertainty that arises if the parties involved in the negotiation process suddenly decide to go to court and get a final decision there. This determinant is majorly based on the factor of risk that the parties are willing to take in order to get what they think is justifiably theirs. Lastly, the fifth determining factor would be how strategically behavior is conducted during the negotiation process.

**Methodology**

For this research, the methodology used will be of the qualitative nature and method. This piece of research will focus on the process of negotiation that has taken place between divorcing couples and the issues that have risen while the negotiation process was underway (Lewick, et al, 2011). Furthermore, more cases of separation will also be researched and the divorce proceedings that have occurred in these instances from different places. Then there would be compared with each by focusing on the handling of the divorce and negotiation process under each case

**Conclusion**

This paper focuses on negotiation and how it is an integral part of our daily lives. Further work done in this paper shows that negotiations are used in every aspect of life mostly to gain something or someone. Mostly, in this paper negotiation is focused through the lens of a divorce and how the people involved in divorces and its settlements use the negotiation process to put the odds in their favor. Furthermore, there is quite well document literature done on the use of negotiation in the divorce process. Research studies have shown different determinants, factors, and basis for engaging in the negotiating process. It also focuses on the use of bargaining and the theory of bargaining in the negotiating process.

**References**

Ahammad, M. F., Tarba, S. Y., Liu, Y., Glaister, K. W., & Cooper, C. L. (2016). Exploring the factors influencing the negotiation process in cross-border M&A. *International Business Review*, *25*(2), 445-457.

Allen, S., & Hawkins, A. J. (2017). Theorizing the Decision‐Making Process for Divorce or Reconciliation. *Journal of Family Theory & Review*, *9*(1), 50-68.

Donohue, W. A., Sherry, J. L., & Idzik, P. (2016). Interaction dynamics predict successful negotiation in divorce mediation. *Journal of Language and Social Psychology*, *35*(4), 374-393.

Flynn, A., & Freiberg, A. (2018). The Negotiation Process. In *Plea Negotiations* (pp. 87-130). Palgrave Macmillan, Cham.

Lewicki, R. J., Saunders, D. M., Minton, J. W., Roy, J., & Lewicki, N. (2011). *Essentials of negotiation*. Boston, MA: McGraw-Hill/Irwin.

Raei, E., Nikoo, M. R., & Pourshahabi, S. (2017). A multi-objective simulation-optimization model for in situ bioremediation of groundwater contamination: application of bargaining theory. *Journal of Hydrology*, *551*, 407-422.

Rojot, J. (2016). *Negotiation: from theory to practice*. Springer.