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PERSPECTIVE

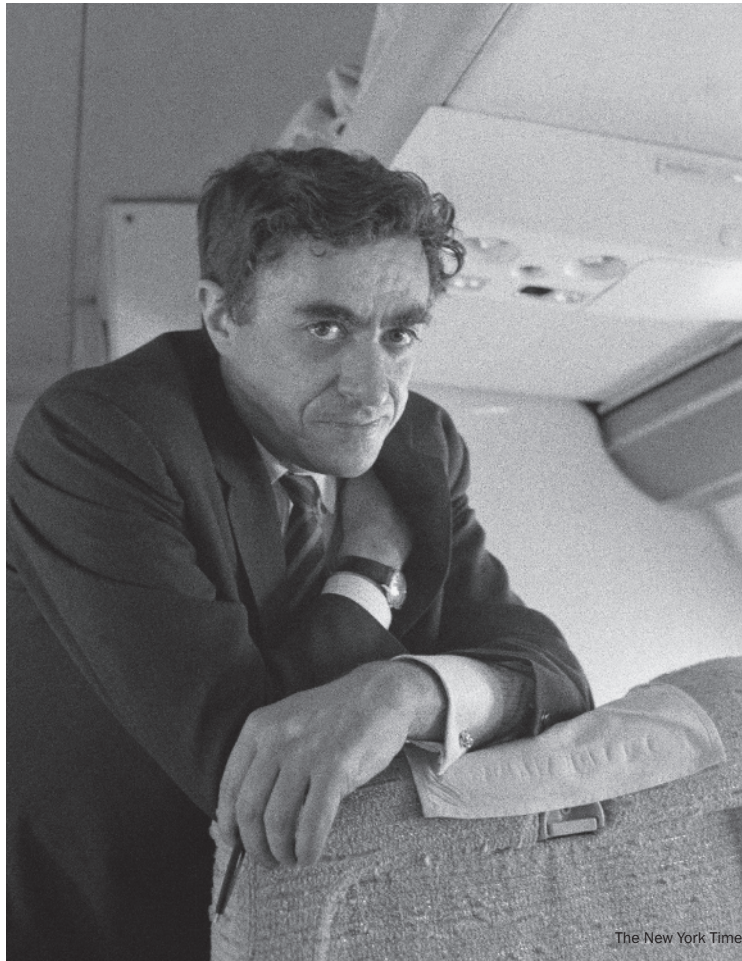
## Doris Kearns Goodwin's book explores missed opportunities in Cuban relations

By Greg Derin

In her latest book, *"An Unfinished Love Story, A Personal History of the 1960s,"* Pulitzer Prize-winning historian Doris Kearns Goodwin shares a fresh view of an historic episode on which her late husband Richard Goodwin previously reported. In his remarkable life, Goodwin was an intimate of John, Robert and Jacqueline Kennedy, an architect of the Peace Corp., the New Frontier and Lyndon Johnson's Great Society.

In 1961, Goodwin was among the visionary creators of the Alliance for Progress, seeking to forge a new relationship between the United States and Latin America, founded upon robust social and economic reforms. At the conclusion of the conference in Uruguay at which the charter for the Alliance for Progress was adopted, Goodwin was maneuvered into a surprise face-to-face meeting with Ernesto Che Guevara, Fidel Castro's right hand. The meeting, occurring months after the failed Bay of Pigs invasion, was orchestrated by Brazilian and Argentinian diplomats.

During the historic four-hour meeting, Guevara made clear that the Cuban revolution was irreversible, but acknowledged his country's economic difficulties. He understood that direct negotiations were not then feasible, but suggested that in exchange for trade concessions, an interim modus vivendi might be reached. Cuba would agree to make no pol-



Richard Goodwin

itical alliances with Russia, despite retaining ideological ties. It would welcome visitors and workers from any country, and discuss limiting its revolution (i.e., exportation of the revolution to other countries). Guevara hoped that these understandings could lead the two countries to live in peace.

President Kennedy was intrigued by the conversation and asked Goodwin to memorialize the details in a memorandum. We will never know what might have come from Guevara's overture. Whether by the attending diplomats or waiters, the fact of the meeting leaked and outraged officials in Washington.

Entrenched forces in the State Department, and on Capitol Hill, demanded the head of the young White House upstart. Congressional hearings were held, and for a time Goodwin was banished from the White House and placed under the watchful eyes of hardline State Department supervisors.

Four decades later, surviving participants in the Cuban Missile Crisis, which brought the world to the brink of nuclear war one year after the Goodwin-Guevara meeting, convened in Havana. During the conference, Goodwin shared his recollection of the Guevara meeting. Kearns Goodwin (who was present at the Havana meeting) observed:

"[T]he mood in America, heightened by the failed [Bay of Pigs] invasion, was not one to countenance ... discussions with Castro. After the success of the Cuban Missile Crisis a year later, however, Kennedy, believing that a window had opened, dispatched an emissary to begin talks with Cuba. This could have led, Dick thought, to a rapprochement, but these talks terminated with Kennedy's assassination." Kearns Goodwin concluded: "Through the nostalgia [of the conference] seeped the sorrows of opportunities not explored, chances not taken, possibilities wasted. It all might have been different."

Would there have been a Cuban Missile Crisis? Would trade with Cuba have resulted in less oppression, a more open society, and a better standard of living for Cubans?

John Kennedy said, "The Chinese

use two brush strokes to write the word 'crisis.' One brush stroke stands for danger; the other for opportunity. In a crisis, be aware of the danger – but recognize the opportunity.” While the stakes are vastly different, those of us who live in the world of complex commercial litigation know this tension well. How often are opportunities disguised as crises? If only everyone had the foresight to recognize them.

As the adage goes, timing is everything. Culture, politics, economics, and security all conspired against the potential of the Goodwin-Guevara meeting. Increasingly, I am asked to mediate disputes which have not yet ripened to litigation. I am cognizant that stakeholders often lack the impartial perspective to recognize opportunities and the fortuity of timing. What can a mediator do to help these parties?

**Listen closely.** By understanding party motivations and goals, a creative mediator can help guide conversations toward options which achieve lower risk, and higher yield solutions. For example, in confidential conversations a mediator may learn that one party places a higher priority on timing rather than achieving the lowest price; or is less interested in territories,

which are of greater interest to a bargaining partner. Stakeholders can be reluctant to share such information directly for fear of exploitation, but if they share it honestly with an attentive mediator, optimal solutions can be achieved.

**Direct dialog.** An analog to understanding motivations and objectives is doing so in a context that can build momentum toward resolution. While free-ranging joint sessions are rarely productive, it can be helpful to structure sessions with principals and the mediator to discuss specific issues, with or without counsel. With the parties prepared by an agenda, and the mediator confident in their intention to engage in a constructive discussion, these sessions can build trust, communicate sincerity, advance detailed business dialog, and overcome obstacles.

**Creativity.** Some mediators are automatons, simply passing numbers or proposals back and forth. Better mediators challenge assumptions, ask parties what they hope to accomplish, and help structure proposals knowing each parties' interests. Mediators with industry knowledge and sophistication also help craft solutions based upon perceived needs and personal exper-

ience in resolving matters which share similar characteristics.

**Timing.** The right solution at the wrong time is the wrong solution. After negotiations facilitated by the Vatican in 2014, the Obama Administration took executive action to ease some restrictions on travel to Cuba, as well as restrictions on the import and export of goods. Although those actions were later reversed by the Trump Administration, they highlight the opportunity to implement solutions when the time is right, and the dangers of shifting environments.

**Choose mediators carefully.** No mediator is right for every dispute. As good as some mediators are with processes (e.g., building rapport, trust), there are times in which substantive expertise or attention to unique personal dynamics is crucial. I have often been called upon as the third or fourth mediator to resolve a matter. It was almost always immediately evident why prior efforts failed. Speak to prospective mediators to assess whether they are right for a case. If you have a good relationship with one or more mediators, they will honestly discuss the issues and make recommendations for the best fit.

Do not risk “sorrows of opportunities not explored, chances not taken, possibilities wasted.”

Shakespeare said it best:  
*“There is a tide in the affairs of men,  
Which, taken at the flood,  
leads on to fortune;  
Omitted, all the voyage of their life  
Is bound in the shallows  
and in miseries ...  
And we must take the current  
when it serves,  
Or lose our ventures.”*  
— Julius Caesar,  
Act IV, Scene 3.

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