

INTRODUCTION
to
YOU CANNOT PREDICT STUPID:
DYNAMIC DECISION TAKING

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“In politics, stupidity is not a handicap.”

Napoleon Bonaparte

This book is guided by the legal principles of due process for decision taking. However, it is not intended just for the legal community. Instead, it is focused on universal application to tell my family, my friends and my clients my life’s experiences for taking decisions and dealing with change and uncertainties. While I was writing this book in 2020, Covid19 has changed the world. I cannot ignore this pandemic, so I have attached an appendix dedicated to this horrible virus and the change it has wrought on life as we know it. I hate to label this the year of the stupid, but the world has failed miserably in dealing with this pandemic. It has brought me to the realization that this work and the lessons I have learned are sorely needed.

The principles of Loop Learning asserted here could have saved many lives in taking decisions and adapting to the Covid-19 world.

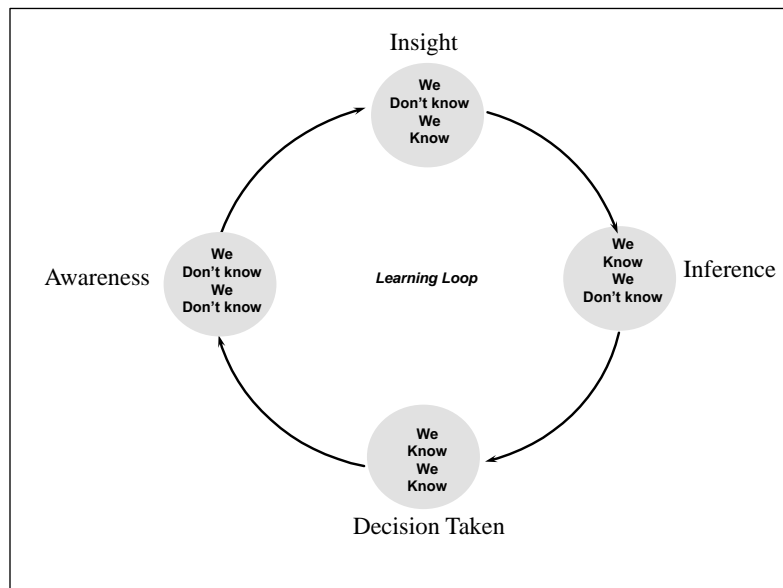
The principles of Loop Learning are:

- Complexity - You cannot predict stupid
- Awareness - All change begins with an anomaly
- Insight - The Driving Forces of change follow the 80/20 rule.
- Inference – Listen to your intuition.
- Decisions – Must be taken from a set of mutually exclusive options.

It is only when we are certain we get into big trouble.

- Review – All decisions must be reviewed. All actions will have unintended consequences which will have a delay factor.

Turning these principles into a model yields the following:



Have you ever driven down a divided highway and seen a horrible accident on the other side with a traffic jam behind it? And when you are on down the road seen cars racing one another to get ahead, jumping back and forth in traffic, running up someone's bumper and rushing to get ahead. And you know that all that rush is in vain because ahead there is a jam. The fools in the other lanes are not getting anywhere soon because up the road is a massive jam and no matter how fast they go in that lane they are just rushing into disaster. My work is all about not getting caught in that jam but avoiding it with early warning so that you can take adaptive and innovative measures to avoid it.

A comedian, Ron White was kidded about marrying an older woman. His reply was that you can get breast augmentation, facelift, butt lift, nose jobs, almost anything physical that you want; but you cannot fix stupid. Stupid is why adapting and innovating is critical today. The world is full of stupid which makes accurate predictions almost impossible. It is not the slow of mind that are dangerous, but the people so sure of themselves that act without fully understanding and evaluating the consequences of their actions. The most dangerous stupid are the ones that know something for sure, I call these "smart stupid".

But how do we deal with smart stupid? That is the question. The earlier you pick up on smart stupid change the better you can adapt. Smart stupid creates wicked stupid problems; problems that resist solving, problems that change while you are trying to solve them. Solution to these problems inevitably contain dilemmas (damned if you do and damned if you do not). This causes some to only see choices between unattractive alternatives. But today's wicked human made smart stupid problems (pandemics, wars, terrorism, climate change, trade wars) all require a different approach than dealing with yesterday's ordinary local problems. Solutions to these wicked problems create new unexpected and unintended consequences. The only solution to smart stupid wicked problems is early adaptation and innovation.

Often solutions are there for the taking; solutions that only require discovery. In legal civil cases we use interrogatory questions, production of documents and request for admissions to discover facts in the opposing case. In a recent civil case, the defendant

declared he made less than \$100,000 a year. Yet examination of his records revealed that his living expenses were twice that. That is the trick the IRS uses to discover people not declaring income, they look at their living expenses. However legal discovery is a double-edged sword. The questions I am asked reveals the other sides legal strategy. Your opponents' questions tell you what he thinks is important. And statements made may have unintended consequences. For instance, if I give you a low ball offer to settle a case, you may think I am a liar or cheat, not trust worthy and not believe anything further I say.

The most famous decision there for the taking was documented by Mark Twain when he was helping his friend General Grant publish his memories. Mark Twain asked General Grant about the decision to "March to the Sea.". It had been widely questioned at the time who was responsible for the decision to make the march that broke the back of the confederacy. The campaign began with Sherman's troops leaving the captured city of Atlanta on November 15 and ended with the capture of the port of Savannah on December 21. When Mark Twain questioned his friend General Grant about who took the decision to "March to the Sea", him or General Sherman, General Grant replied "neither, the enemy did." You see, the enemy provided the opportunity. Careful observation and patience prevailed in watching for stupid mistakes.

Laws can also be smart stupid mistakes. Tennessee recently passed a law that allowed citizens to carry guns in their vehicle. Subsequently, Nashville had over 600 guns stolen from unlocked vehicles shortly after the law was passed. But worse yet another Tennessee city had over a thousand guns stolen from cars. This is a classic example of unintended consequences from stupid decisions, or stupid unintended consequences. Teenagers steal the most cars, so the unintended consequence to this new law allowing people to carry guns in their car for protection unintentionally made it less safe for the public. As a result, teenager car thieves now had possession of weapons along with a vehicle. And there is nothing more dangerous than a teenager joy riding in a stolen car with a gun. But the most obvious unintended legal consequence today is the right on red turn. This rule has caused many unintended accidents as drivers turning right do not see pedestrians.

Constant adaptation is paramount today because the world is complex and change to a complex system will inevitably have unintended consequences. There are so many integral parts to the global systems of today that even the super computers can't map it. One of the parts of the system is going to do something unexpected and unintended, resulting in surprise. For instance the drug Viagra was developed to lower blood pressure, with its use for treating erectile dysfunction being discovered as a side effect in clinical trials. This discovery was a very profitable outcome for the clinician that paid attention to unintended consequences of the trial. And for the stock trader that noticed the men in the Viagra clinic trials were rioting when their tests were terminated without the drug.

Some stupid decisions have unintended consequences that can be devastating. Prohibition laws in the 1920s in the United States was originally enacted to suppress alcoholism which was widespread during the roaring 20's. But the unintended consequence of prohibition was that it consolidated the hold of large-scale organized crime over the illegal alcohol industry. This ended up with today's drug cartels who became the primary source of drugs and terror in the world. I told a police officer the other day that he was unintentionally contributing to the violence in the city by cracking down on drugs. The dealers have no drugs to sell so they rob the other dealers. Problem is if drug dealer gets robbed he has

to shoot someone or he will be seen as weak and you will get robbed again. I had a client shot because he was known to be a robber, the person robbed did not know who robbed him, but somebody had to get shot or he himself would be targeted as a mark. The officer did not see my point to the vicious cycle of drug enforcement. And sadly, we cannot solve this problem at the same scale it is caused. No, we first must solve the social issues causing it.

We cannot solve problems at the level they are created. We must scale up or move up in our thinking from local to global, from the trees to the forest. Some call it "helicoptering", moving quickly up and down in our thinking. Total Quality is good example of a solution to a wicked problem. In the 70's US car manufacturers saw increased quality as costing more. A better engine cost more, right? But the Japanese auto makers were forced to create low maintenance cars without defects if they wanted to serve a market thousands of miles away. They could not depend on dealers to fix the problems of manufacturing like Detroit could. They turned to Dr. Deming who led the Japanese to the Total Quality Process. They learned that quality was free. American car manufacturers saw quality as a dilemma, to increase quality you had to spend and increase cost. But, if you cut defects you increase quality which cuts costs. Dr. Deming said it best when he said that quality is free. If it were not for this adaptation, we would still have car engines that only lasted 100,000 miles not like my GMC with 300,000 miles on it.

"It is only when we are certain that we get into big trouble."

When we are certain about our decisions, we are the most at risk. Stupid wicked problems cannot be addressed with certainty. Certainty makes us bet the house, to charge ahead, to ignore warnings, or not even look. One winter I went to visit a client in Detroit. On the trip I saw people ice fishing. Most of these fishermen had cut holes in the ice and some had little huts. I was impressed because the ice must have been pretty thick. But then I saw a person ice fishing way out on a huge lake and parked beside his fishing hut was a full sized pickup truck. It really hit me that this person was certain. If there was even a hint of uncertainty he would have been like me, crawling out on the ice, having a heart attack with the first pop of the ice, carefully listening and watching for cracks. No he just drives a big truck out on the ice. He bet the house on it. It hit me like a brick that certainty is very dangerous. Yet there is another lesson to be learned from that story. No matter what, there are stupid unpredictable people in this world and the dangerous people in the world are smart and certain. That's why we cannot accurately predict the future. We cannot predict stupid; but what's worse we cannot predict crazy. Stupid has some bounded rationality, but worse yet, crazy is completely unpredictable. At least stupid usually stays within the world of possibilities but crazy does not.

There are two types of smart stupid people, rational people and emotional people. The rational people will preach their rational numerical quantitative approach to problem solving. They are the forecasters and the analytics. They are the Wall Street stock brokers that advertised "let us take the emotions out of decisions." Which by far is the dumbest thing I ever heard. They are pushing the rational over the emotional; where they think their decisions are fact based. They are focused on a rational world, a linear world. Unfortunately, their rational model looks primarily at money. Many law firms and companies focus on money as the driver. But how do we define value? The problem is that without emotions there are no values. Emotions are an important ingredient in our decisions. They cannot be ignored. Emotions are our values; they are what is important to us. They are what we love or what we hate. Without emotions how would we value one

alternative or option over the other? Sure, if you are all about money you could just pick an alternative that provides the most money. Funny thing, all money decisions are also value decisions. Problems with values are what make criminals. That's a world where the rational trump the emotional. In that world a thief ignores wrong to profit. Funny, it has been found that the rich get more out of helping others with their money than spending money on themselves. Sad thing in business the rational trump the emotional arguments. The rational have numbers, the emotional have values. Purpose driven law firms and companies are rare but the ones that do consider the rational and emotional factors in taking decisions.

Today we are faced with stupid wicked problems that are people created. Wicked stupid problems that resist solutions; they are filled with complexity and uncertainty; they involve great and uncertain risk; and while you are making up options for taking action, the world changes in some unexpected way. Like John Lennon says in a song to his son, "life is what happens while you're making other plans." September 11, 2001 is an extreme example. Before 911 spy movies were dead, the cold war was over, the wall was down, we had no major threats. But on 911 all the world changed; priorities changed; business was not as usual. No one saw that coming. The Secretary of Defense said 911 happened because we "failed to have an imagination."

Lawyers are faced with stupid wicked decisions every day. The American legal system was developed to handle stupid wicked problems. It inherently reviews decisions taken. In the American legal system, all decisions are reviewable. Any judge can be overturned. Yes, even the Supreme Court can be reviewed and reversed by Congress. The US legal system is intended to be ruled by laws, not men. These laws are defined by our values; such as freedom and liberty for all. And it works pretty well. So why in our own decision taking don't we regard all decisions as reviewable and reversible? That means we must have imbedded in our thinking that all decisions must be structured for review and possible reversibility. And we have to develop our review process, our appeal process.

But first we must assume all our decisions are suspect. We must agree that we cannot accurately predict the future. We must develop decision review in our plans. Most new products fail today; most businesses do not last five years. In spite of the most careful design, the most detailed marketing studies, the best ads. Wrong decisions must be thought to be the norm. We must adapt to the changing world. All decisions have a life span. In the legal system, appeal lawyers usually review decisions and advise their clients (who are the real decision taker) to appeal a decision for review by the higher court. My friend Michael Naylor when he was president of Rubbermaid said that all their highly successful "home run products", were unexpected. He learned that you do not want to select only the most promising products to take to market. How would you know? Only the market knows what it wants. Take all the products to market that you can and as practical as you can and the market will decide. That is decision taking. Peter Schwartz told me once "if you want to be a winner, you have to make a lot of bets."

Why is it important that we review all decisions? Simply, we cannot predict the future. You cannot predict smart stupid. Mental illness is a major problem today. And it is not isolated to the poor, it's in the boardrooms of the world. You cannot predict people. You cannot predict the future. That's easy to say right? But do you really, really believe it? Can you accept that you don't know what you don't know? That you don't even know what you know? Life in our rural community seems very stable and change seems slow.

Today is pretty much like yesterday. The news on TV is distant. But once I was overnight priced out of a house because the FED changed interest rates. Keep a close eye out for change. Allocate time to review the results of your decisions taken. Remember, a flap of a butterfly's wings in Asia will impact you in America.

Once you accept that you cannot predict the future, you must throw away the old way of thinking and making decisions; the command-and-control model; the linear way of thinking, the hierarchical decision making. Throw away the model of predicting the future. A jury is 12 times more unpredictable than a judge. Forget the argument that the reason why forecasting models failed was that they were not complex enough, that more data was needed to represent reality that computers can crush large numbers and make predictions. Even complex super computer models fail. There is no data on the future. There are no facts about the future. The pace of change and the openness of the world; of countries, markets, cultures and most of all, that people have made the world much more complex and unpredictable. What we need is a way to deal with complexity, uncertainty, and stupidity. One that enables us to adapt to the changing world, rapidly. We must adapt and be prepared to take decisions when they are discovered.

Dr. Deming said; *"It is not necessary to change. Survival is not mandatory"* To survive in tomorrow's new world we must learn to learn, it is all about learning. Tomorrow is a new day unlike any other day. Learning to adapt means we must perceive the emergence of the new; new events and new trends, that change our world. And we must learn early. We have to accept learning as a way of life. We have to constantly look, listen and even feel. We must accept what-if thinking. We have to listen to the devil's advocate. We need to learn to learn.

Our schools are failing us, they aren't teaching how to learn. They are teaching how to do things; how to calculate square feet, how to count, how to talk, how to write; all mechanical how to. It took me a long time to realize that law school did not teach me the law *but instead they taught me how to learn the law*. The law is constantly changing. Even the constitution is amended often, as it is interpreted by courts every day. It is a reviewable plan.

Learning is not a linear mechanical process of memorization. The constant and rapid change in the world requires a process that is natural, easy to replicate and can operate at all scales. A process that works in the court room, the boardroom, the small firm, the large firm, from the wealthy to the poor, from the small claims court to the Supreme Court. A process that includes friends and enemies. A process for adaptation. A process that goes beyond merely responding to changes, to anticipating change.

In the following chapters, I will examine a way to adapt and innovate. A replacement to the simplistic mechanical view of the world. A process for adaptation to change, a process for discovery of change in the social, economic, environmental, political and technology worlds. I will examine an "adaptive decision taking" process that not only allows all decisions to be reversible but by habit even makes it reversible. A process that seeks for what we don't know we don't know. A process to search for change; the unusual, the strange, the new. A process for adapting and innovating: Loop Learning.

