

NOTES: Getting to Yes: Negotiating Agreement Without Giving In by Roger Fisher and William Ury

Any method of negotiation may be fairly judged by 3 criteria:

- it should produce a wise agreement if agreement is possible
- it should be efficient
- it should improve or at least not damage the relationship

Positional Bargaining (stay away from this beastly method of negotiating):

- Your ego becomes identified with your position. You now have interest in "saving face".
- As more attention is paid to positions, less attention is devoted to meeting the underlying concerns of the parties.
- Dragging feet, stonewalling, threatening to walk out, and other such tactics become commonplace and all increase the time and costs and the risk of no agreement at all
- Bitter feelings generated by one such encounter may last a lifetime
- Choosing a soft and friendly position makes you vulnerable to someone who plays a hard position - hard always dominates soft

All good negotiation occurs on 2 levels: substance and procedure.

Principled Negotiation (or negotiation on merits):

- **[P] People:** separate the people from the problem
- **[I] Interests:** focus on interests, not positions
- **[O] Options:** generate a variety of possibilities before deciding what to do
- **[C] Criteria:** insist that the results be based on some objective standard

The participants should come to see themselves as working side by side, attacking the problem, not each other. Invent options for mutual gain.

There are 3 stages to Principled Negotiation:

- Analysis: try to diagnose the situation
- Planning: plan and come up with additional options and additional criteria
- Discussion: the actual communication and negotiation back and forth, looking toward agreement

Principled Negotiation: People:

- The ongoing relationship is far more important than the outcome of any negotiation
- If there are psychological problems, use psychological tactics.
- If perceptions are inaccurate, look for ways to educate.
- If emotions run high, then find ways to let all involved let off some steam.
- If misunderstanding exists, work to improve communication.

There are 3 Basic People Problems:

- o **Perception:**
 - You must put yourself in the other person's shoes to understand the problem from their way of thinking. Feel the emotional force with which they believe in it.
 - Understanding is not the same as agreeing - one can understand perfectly and completely disagree
 - Don't deduce their intentions from your fears
 - Don't blame them for your problem: separate the symptoms from the person you are talking
 - Discuss each other's perceptions: often negotiating parties will dismiss concerns on the other side perceived as not standing in the way of negotiation - don't do that!
 - Look for opportunities to act inconsistently with their perceptions
 - Give them a stake in the outcome by making sure they participate in the process: in a sense, the process is the product
 - Face-saving: Make your proposals consistent with their values
- o **Emotion:**
 - First recognize and understand emotions, theirs and yours
 - Make emotions explicit and acknowledge them as legitimate
 - Allow the other side to let off steam
 - Don't react to emotional outbursts: adopt the rule that "only one person can get angry at a time"
 - Use symbolic gestures
- o **Communication:**
 - Whatever you say, you can expect that the other side will almost always hear something different
 - Sometimes, parties give up and talk merely to impress 3rd parties on their own constituency

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- Do not busy yourself with thinking of the next thing to say - if you are not hearing what the other side is saying, then there is no communication
- Listen actively and acknowledge what is being said
- Speak to be understood - put yourself in the role of being a co-judge working toward a common verdict
- Speak about yourself, not about them: describe a problem in terms of its impact on you ("I feel let down" instead of "you broke your word")
- Speak for a purpose: know the purpose of your outcome

Principled Negotiation: Interests:

- The difference between interests and positions is crucial: interests motivate people; they are silent movers behind the hubbub of positions. Your position is something you have decided upon, while your interests are what caused you to decide.
- You can ask for another's position, making clear that you do not want justification, just a better understanding their needs, hopes, fears, or desires that they serve.
- The most powerful interests are basic human needs: security, economic well-being, sense of belonging, recognition, control over one's life
- If you want the other side to take your interests into account, explain to them what those interests are
- Make your interests come alive - be specific!
- Acknowledge their interests as part of the problem - be sure to show your appreciate their interests if you want treatment in like kind
- Put the problem before your answer: give your interests and reasoning first and your conclusions or proposals later
- Look forward, not back: instead of asking someone to justify what they did yesterday, ask "Who should do what tomorrow?"
- Be concrete but flexible: treat the opinion you formulate as simply illustrative - final decision to be worked on later
- Be hard on the problem, soft on the people: show you are attacking the problem, not people - give positive support to the humans on the other side equal in strength to the vigor you emphasize the problem - this causes cognitive dissonance and in order for the other to overcome it they will be tempted to disassociate from the problem in order to join you in doing something about it

Principled Negotiation: Options:

- Premature Judgment: nothing is so harmful to inventing as a critical sense waiting to pounce on the drawbacks of any new idea. Judgment hinders imagination.
- Premature Closure: if you look for the single best answer from the outset, you are likely to miss a wiser decision-making process where you select from a large number of answers.
- Don't assume the bargaining is based on a fixed pie - sometimes you have to get out of the pie and not just aim to fill in the 100%
- Do not concern yourself with only your own immediate needs and interests. Both sides must be considered.
- Separate inventing from deciding - invent 1st, decide later.
- Look for options that will leave the other side satisfied as well.
- Every negotiation has shared interests. Shared interests are opportunities - not Godsend. Make them concrete and future-oriented. Stressing your shared interests can make things more smooth and amiable.
- Jack Sprat could eat no fat, His wife could eat no lean, and so betwixt them both they licked the platter clean.
- Look for items that are low cost for you but high value for them, and vice versa.
- If you place yourself firmly in the shoes of your opposite number, you will understand his problem and what kind of options might solve it.
- If you want a horse to jump a fence, don't raise the fence.
- It is usually easier to refrain from doing something not being done already than to stop an action already underway. Also, it is easier to stop doing something than to go an entirely new way.
- Making threats is not enough. Offers are usually more effective.
- When planning, write out 1-2 sentences on what the most powerful critic of the other side might say about your proposal to prepare.

Principled Negotiation: Criteria:

- Negotiate on the basis of objective criteria and NOT the will of either side.
- Commit yourself to reaching a solution based on principle, not pressure.
- Concentrate on the merits of the problem, not the mettle of the parties.
- Be open to reason, but closed to threats.

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- If some agent states that the form being used is just the standard form, then ask them if that is the same standard form THEY would use in this situation.
- Don't forget the cake division tactic - ask 2 kids to divide a cake amongst themselves: one cuts, the other picks.
- **Negotiating with Objective Criteria:**
 - o Frame each issue as a joint search for objective criteria
 - o Reason and be open to reason to which standards are most appropriate and how they should be applied
 - o Never yield to pressure, only to principle
- Never be afraid to ask: "What's your theory?" or "How did you arrive at that figure?"
- When negotiating and 'trust' is brought up, simply state: "Trust is an entirely separate matter. The issue at hand is..."
- If the other side truly will not budge and will not advance a persuasive basis for their position, then there is no further negotiation.

What if they are more powerful?:

- The reason you negotiate is to produce something better than the results you can obtain without negotiating.
- **BATNA** - Best Alternative To a Negotiated Agreement - develop it for every negotiation and keep it close.
 - o Invent a list of actions you might conceivably take if no agreement is reached
 - o Improve some of the more promising ideas and convert them into practical alternatives
 - o Tentatively selecting the alternative that seems best
- Don't forget to set a trip-wire to provide some margin in reserve - that early warning detector that lets you know they're headed away from negotiation and toward your BATNA.
- The better your BATNA, the greater your power. The relative negotiating power of each side depends mainly on how attractive to each is NOT reaching an agreement.
- Consider the other side's BATNA: if theirs is so good they don't see any need to negotiate on the merits, consider what you can do to change it.

What if they won't play?

- Do not push back - when they assert their position, do not reject them. When they attack your ideas, do not defend them. When they attack you, don't counterattack. Sidestep their attack and deflect it against the problem.
- Do not attack their position, look behind it. Treat it as one possible option. Look for the interests behind it, seek out the principles which it reflects, and think about ways to improve it.
- Don't defend your ideas, invite criticism and advice: ask them what's wrong with your position. Examine their negative judgments to find out their underlying interests and to improve your ideas from their point of view. Consider asking them for what they would do if they were in your position.
- Recast an attack on you as an attack on the problem: don't defend yourself - let them blow off some steam. Listen to them, show you understand what they are saying, and when they are done, recast the attack on you to the problem.
- Ask questions and pause: use questions instead of statements. Statements generate resistance and questions generate answers. Just wait - if you feel they have provided an insufficient answer to an honest question - they will feel uncomfortable and offer more information.
- Figure out WHY someone wants something and negotiate on those merits. "Wife wants a bay window... figure out why and see if alternatives exist"
- **Getting them to play - use these statements to help the cause:**
 - o Please correct me if I am wrong
 - o We appreciate what you're done for us
 - o Our concern is fairness
 - o We would like to settle this on the basis of independent standards, not of who can do what to whom
 - o Trust is a separate issue
 - o Could I ask you a few questions to see whether my facts are right?
 - o What's the principle behind your action?
 - o Let me see if I understand what you're saying
 - o Let me get back to you
 - o Let me show you where I have trouble following some of your reasoning
 - o One fair solution might be...
 - o if we agree ... and if we disagree...
 - o We'd be happy to see if we can leave when it's most convenient for you
 - o It's been a pleasure dealing with you

What if they use dirty tricks?

- Counter them by using principled negotiation about the negotiation process.
- **Deliberate deception:**

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- o Phony facts: get in the habit of trusting but verifying factual assertions
- o Ambiguous authority: find out about the authority of the other side - it's okay to ask "how much authority do you have in this particular negotiation?"
- o Dubious intentions: get them to commit to their intentions
- o Less than full disclosure is not the same as deception: if asked, "what would be willing to pay?", then answer "let's not put ourselves under such strong temptation to mislead."
- **Psychological warfare:**
 - o Stressful situations: continually questions any stressful feelings you have and work to minimize what you can
 - o Personal attacks: comments on clothes, being late, interrupting to deal with others - all attacks. Bring it up explicitly and they should stop.
 - o Good-guy/Bad-guy: recognize it and just remain consistent between the two - ask the good guy the same questions as the bad guy
 - o Threats: simply state, "I only negotiate on merits. My reputation is built on not responding to threats."
- **Positional pressure tactics:**
 - o Refusal to negotiate: recognize this tactic as a ploy to gain the upper hand, talk about their refusal to negotiate, and then insist on using principles
 - o Extreme demands: ask for principled justification of their position until it looks ridiculous even to them
 - o Escalating demands: call it to their attention and maybe take a break while you consider whether and what basis you want to continue negotiations
 - o Lock-in tactics: resist lock-ins on principle - make a joke and don't take the lock-in seriously. Also reassure them that your practice is to never yield to pressure, only to principle. Avoid making the commitment a central question.
 - o Hardhearted partner: recognize the tactic ("...oh but my wife...") and then get the other person involved
 - o A calculated delay: make these tactics explicitly known - consider creating a fading opportunity for the other side - establish deadlines
 - o "Take it or leave it": consider ignoring this at first - say something like "CASE X was your final offer before we discussed the principles of CASE Z"
- Don't be a victim: question your own motives on whether or not you would deal this way with a family member or good friend. It is easier to defend principle than an illegitimate tactic.

Conclusion and Clarifications:

- In most instances, it is just as inappropriate to ask a negotiator "who's winning?" as to ask "who's winning?" in a marriage.
- Negotiating is getting what you deserve AND being decent.
- Never give in for the purpose of trying to improve a relationship.
- Don't measure success by how far the other party has moved.
- JFK: "Let us never negotiate out of fear. But let us never fear to negotiate."