

Getting to Yes by Roger Fisher and William Ury

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OVERVIEW

Negotiations don't have to be hard nor soft, but rather both hard and soft. The Harvard Negotiation Project developed an alternative to positional bargaining called **principled negotiation or negotiation on the merits**. This is a method of negotiation explicitly designed to produce wise outcomes efficiently and amicably. The goal is to decide issues on their merits rather than through a haggling process focused on what each side says it will and won't do. It suggests that you look for mutual gains whenever possible.

INSPIRING QUOTES

The reason you negotiate is to produce something better than the results you can obtain without negotiating.

The best rule of thumb is to be optimistic— to let your reach exceed your grasp. Without wasting a lot of resources on hopeless causes, recognize that many things are worth trying for even if you may not succeed. The more you try for, the more you are likely to get. Studies of negotiation consistently show a strong correlation between aspiration and result. Within reason, it pays to think positively.

Any method of negotiation may be fairly judged by three criteria: It should produce a wise agreement if agreement is possible. It should be efficient. And it should improve or at least not damage the relationship between the parties.

Your reputation for honesty and fair- dealing may be your single most important asset as a negotiator.

Whatever else you are doing at any point during a negotiation, from preparation to follow- up, it is worth asking yourself, "Am I paying enough attention to the people problem?". This means their humanistic frailties and your own.

Dealing with a substantive problem and maintaining a good working relationship need not be conflicting goals if the parties are committed and psychologically prepared to treat each separately on its own legitimate merits.

Don't deduce their intentions from your fears.

The ability to see the situation as the other side sees it, as difficult as it may be, is one of the most important skills a negotiator can possess.

Give them a stake in the outcome by making sure they participate in the process.

Face- saving involves reconciling an agreement with principle and with the self- image of the negotiators. Its importance should not be underestimated.

Be personally supportive of the other person. Listen to them with respect, show them courtesy, express your appreciation for their time and effort, emphasize your concern with meeting their basic needs, and so on. Show them that you are attacking the problem, not them.

When they state positions, figure out what interests they are trying to meet. Seek out the principles the position reflects, and try to improve upon it.

Look forward, not back. Don't talk about causes; talk about solutions. You will satisfy your interests better if you talk about where you would like to go rather than about where you have come from.

An open mind is not an empty one.

Be hard on the problem, soft on the people. Often the wisest solutions, those that produce the maximum gain for you at the minimum cost to the other side, are produced only by strongly advocating your interests. Successful negotiation requires being both firm and open minded.

Question your assumptions and listen actively.

Generate many options before selecting among them. Invent first; decide later.

Insisting that an agreement be based on objective criteria does not mean insisting that it be based solely on the criterion you advance. One standard of legitimacy does not preclude the existence of others.

It is the combination of openness to reason with insistence on a solution based on objective criteria that makes principled negotiation so persuasive and so effective at getting the other side to play.

Too often we worry about getting a deal done instead of walking away because of what we've invested into the negotiation. We wind up being too accommodating and accept a deal we should have rejected.

Whether you should or should not agree on something in a negotiation depends entirely upon the attractiveness to you of the best available alternative.

Good negotiators rarely resort to threats. They do not need to; there are other ways to communicate the same information.

There is no need to emulate unconstructive behavior. Doing so may indeed “teach them a lesson,” though often not the lesson we would like. In most cases responding in kind reinforces the behavior we dislike. It encourages the other side to feel that everyone behaves that way and that it is the only way to protect themselves. Our behavior should be designed to model and encourage the behavior we would prefer and to avoid any reward for the behavior we dislike, both without compromising our substantive interests.

THE CONCEPTS

Principled negotiation is superior to positional bargaining.

Problems that arise in using the standard strategies of positional bargaining (arguing over positions)

- Arguing over positions produces unwise outcomes. The more you clarify your position and defend it against attack, the more committed you become to it. The more attention that is paid to positions, the less attention is devoted to meeting the underlying concerns of the parties.
- Arguing over positions produces unwise outcomes. The more attention that is paid to positions, the less attention is devoted to meeting the underlying concerns of the parties.
- Arguing over positions is inefficient. The more extreme the opening positions and the smaller the concessions, the more time and effort it will take to discover whether or not agreement is possible.
- Arguing over positions endangers an ongoing relationship. Anger and resentment often result as one side sees itself bending to the rigid will of the other while its own legitimate concerns go unaddressed.
- Positional bargaining trades substance and a good relationship against each other. You either let the matter drop (substance) or you sacrifice the relationship to satisfy your position.

Principled Negotiation

Principled Negotiation is based on four basic points:

1. Separate the people from the problem
2. Focus on interests, not positions
3. Invent options for mutual gain
4. Insist on using objective criteria

Separate the people from the problem

Build a working relationship independent of agreement or disagreement.

If they feel personally threatened by an attack on the problem, they may grow defensive and may cease to listen. This is why it is important to separate the people from the problem. Attack the problem without blaming the people.

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One useful rule of thumb is to give positive support to the human beings on the other side equal in strength to the vigor with which you emphasize the problem.

It is useful to think in terms of three basic categories: perception, emotion, and communication.

- Perception: It is ultimately the reality as each side sees it that constitutes the problem in a negotiation and opens the way to a solution.
 - If you want to influence the other person, you also need to understand empathetically the power of their point of view and to feel the emotional force with which they believe in it. To accomplish this task you should be prepared to withhold judgment for a while as you “try on” their views.
 - Discuss each other’s perceptions. One way to deal with differing perceptions is to make them explicit and discuss them with the other side WITHOUT using blaming language. Communicating loudly and convincingly things you are willing to say that they would like to hear can be one of the best investments you as a negotiator can make. By spending time on the subjects important to them, when the subject is unimportant to you, you are establishing credibility and opening communication channels in a low cost way.
 - Look for opportunities to act inconsistently with their perceptions. Perhaps the best way to change someone’s perceptions is to send them a message different from what they expect.
- Emotion: recognize and understand emotions, theirs and yours.
 - Pay attention to core interests. Many emotions in negotiation are driven by a core set of five interests:
 - autonomy , the desire to make your own choices and control your own fate;
 - appreciation, the desire to be recognized and valued;
 - affiliation, the desire to belong as an accepted member of some peer group;
 - role, the desire to have a meaningful purpose; and
 - status, the desire to feel fairly seen and acknowledged.
 - Another driver of strong negative emotion is a perceived threat to identity— one’s self- image or self- respect.
- Communication:
 - There are 3 big problems in communication:
 - Negotiators may not be talking to each other, or at least not in such a way as to be understood.
 - Even if you are talking directly and clearly to them, they may not be hearing you.
 - Misunderstanding.
 - What can be done about these three problems of communication?
 - Listen actively and acknowledge what is being said. Show them you understand their POV.
 - Speak to be understood.

- Speak about yourself, not about them. It is more persuasive to describe a problem in terms of its impact on you than in terms of what the other person did or why.
- Speak for a purpose. Know what you want to say or find out and why.
- Prevention works best
 - Build a working relationship.
 - Face the problem, not the people. Think of yourself as partners in a search for a fair agreement advantageous to each.
- Deal rationally with apparent irrationality. Question your assumption that others are acting irrationally. Perhaps they see the situation differently.

Focus on interests, not positions

Reconciling interests rather than positions works for two reasons. First, for every interest there usually exist several possible positions that could satisfy it. Second, behind opposed positions lie many more shared and compatible interests than conflicting ones. (We tend to assume that because the other side's positions are opposed to ours, their interests must also be opposed.)

How do you identify interests? The interests underlying a position may well be unexpressed, intangible, and perhaps inconsistent. If you are trying to change their minds, the starting point is to figure out where their minds are now.

- Put yourself in their shoes. Examine each position they take, and ask yourself "Why?"
- Ask "why not?" Identify what your negotiation partner probably thinks you are asking them for, and then ask yourself why they have not made that decision. What interests of theirs stand in the way? Then analyze what they see as the consequences to agreeing and not agreeing. (This is not an exercise of logical precision; rather, it's choices based on emotion).
- Realize that each side has multiple interests. There may be more than one negotiation partner on the other side, and they may have differing interests.
- Look particularly for those bedrock concerns that motivate all people. Basic human needs include:
 - security
 - economic well- being
 - a sense of belonging
 - recognition
 - control over one's life

Acknowledge their interests as part of the problem.

How do you express your interests?

- Give your interests and reasoning first and your conclusions or proposals later
- Be specific and detailed
- Don't downplay your concerns
- Go into a meeting not only with one or more specific options that would meet your legitimate interests but also with an open mind
- One of the greatest powers you have is to reframe, using statements and questions to change the focus of negotiation to interests, options, and standards.

Invent options for mutual gain

Often it seems like there's no win-win option. Skill at inventing options is one of the most useful assets a negotiator can have.

In most negotiations there are four major obstacles that inhibit the inventing of an abundance of options:

1. **Premature Judgment:** Inventing options does not come naturally. Judgment hinders creativity.
2. **Searching for the single answer:** By looking from the outset for the single best answer, you are likely to short-circuit a wiser decision-making process in which you select from a large number of possible answers.
3. **The assumption of a fixed pie:** each side sees the situation as essentially either/or—either I get what is in dispute or you do.
4. **Thinking that “solving their problem is their problem”:** Each side is concerned with only its own immediate interests. Emotional involvement on one side of an issue makes it difficult to achieve the detachment necessary to think up wise ways of meeting the interests of both sides.

To overcome these constraints, you need to understand them.

To invent creative options, then, you will need to:

- separate the act of inventing options from the act of judging them;
- broaden the options on the table rather than look for a single answer;
- search for mutual gains; and
- invent ways of making their decisions easy.

Without some option that appeals to them, there is likely to be no agreement at all.

Insist on using objective criteria

If trying to settle differences of interest on the basis of will has such high costs, the solution is to negotiate on some basis independent of the will of either side— that is, on the basis of objective criteria.

- How do you develop objective criteria, and
- how do you use them in negotiating?

You will usually find more than one objective criterion available as a basis for agreement. At a minimum, objective criteria need to be independent of each side's will. Ideally, to assure a wise agreement, objective criteria should be not only independent of will but also both legitimate and practical. You can use:

- fair standards for the substantive question or
- fair procedures for resolving the conflicting interests.

Having identified some objective criteria and procedures, how do you go about discussing them with the other side? There are three basic points to remember:

1. Frame each issue as a joint search for objective criteria.
2. Reason and be open to reason as to which standards are most appropriate and how they should be applied.
3. Never yield to pressure, only to principle.

Agree first on principles. Before even considering possible terms, you may want to agree on the standard or standards to apply.

What if they have all the power?

If they have all the leverage, the most any method of negotiation can do is to meet two objectives:

1. to protect you against making an agreement you should reject, and
2. to help you make the most of the assets you do have so that any agreement you reach will satisfy your interests as well as possible.

How do you enhance your negotiating power? Negotiation power has many sources.

- One is having a good BATNA. Provided they believe you, it is persuasive to tell the other side that you have a better alternative.
- Look to one of the four basic points — separating the people from the problem, interests (not positions), multiple options, and objective criteria— as a source of negotiation power. If the other side is strong in one area, you can try to develop strength in another.

Protecting yourself

Instead of establishing your personal bottom line, use BATNA (Best Alternative to a Negotiated Agreement) to protect yourself against both accepting an agreement you should reject and rejecting an agreement you should accept.

- What will you do by a certain time if something doesn't happen?
- Which of the alternatives are most attractive?
- How does that alternative compare to the best offer in the negotiation?

Having a bottom line makes it easier to resist pressure and temptations of the moment. But the protection afforded by adopting a bottom line involves high costs.

- It limits your ability to benefit from what you learn during negotiation.
- It also inhibits imagination. It reduces the incentive to find a solution that may be more advantageous for all.
- A bottom line is likely to be set too high or too low.

Although your BATNA is the true measure by which you should judge any proposed agreement, you may want another test as well. To give you early warning that the content of a possible agreement is beginning to run the risk of being too unattractive, it is useful to identify one far from perfect agreement that is better than your BATNA. Before accepting any agreement worse than this trip- wire package, you should take a break and reexamine the situation.

Generating possible BATNAs requires three distinct operations:

1. inventing a list of actions you might conceivably take if no agreement is reached;
2. improving some of the more promising ideas and converting them into practical alternatives; and
3. selecting, tentatively, the one alternative that seems best.

Consider the other person's BATNA also. If they appear to overestimate their BATNA, you will want to help them think through whether their expectations are realistic.

Sometimes you should spend time improving your BATNA to make it more attractive. Apply knowledge, time, money, people, connections, and wits into devising the best solution for you independent of the other side's assent.

What if they won't play?

There are three basic approaches for focusing their attention on the merits when they refuse to move away from their positions.

1. You yourself can concentrate on the merits, rather than on positions.
2. Negotiation jujitsu: focus on what they may do. Do not push back. When they assert their positions, do not reject them. When they attack your ideas, don't defend them. When they attack you, don't counterattack. Break the vicious cycle by refusing to react. Instead of pushing back, sidestep their attack and deflect it against the problem. Channel it into exploring interests, inventing options for mutual gain, and searching for independent standards. Recast an attack on you as an attack on the problem. Use questions instead of statements, and then pause, allowing them to fill the silence.
3. Consider including a third party trained to focus the discussion on interests, options, and criteria.

Suggested techniques:

- Run through their proposal as a hypothetical to see how it would work.
- Don't defend your ideas, invite criticism and advice. Instead of asking them to accept or reject an idea, ask them what's wrong with it. "What concerns of yours would this salary proposal fail to take into account?" Another way to channel criticism in a constructive direction is to turn the situation around and ask for their advice.
- One Text Procedure: a process where you get all parties' WNI on one paper to then create a recommendation or draft. Allow the parties to start criticizing the draft until you get to a final recommendation.

What If They Use Dirty Tricks?

If they recognize that a tricky bargaining tactic is being used against them, most people respond in one of two ways.

- The first standard response is to put up with it.
- The second common response is to respond in kind.

To counter tricky tactics, you will want to engage in principled negotiation about the negotiating process.

There are three steps in negotiating the rules of the negotiating game where the other side seems to be using a tricky tactic:

1. recognize the tactic,
2. raise the issue explicitly, and
3. question the tactic's legitimacy and desirability— negotiate over it.

Tricky tactics can be divided into three categories:

1. deliberate deception
2. psychological warfare: These tactics are designed to make you feel uncomfortable, so that you will have a subconscious desire to end the negotiation as soon as possible.
3. positional pressure tactics: This kind of bargaining tactic is designed to structure the situation so that only one side can effectively make concessions.

Suggested techniques for deliberate deception:

- Don't trust their facts. A practice of verifying factual assertions reduces the incentive for deception, and your risk of being cheated.
- Do not assume that the other side has full authority just because they are there negotiating with you. Some people use a tactic of after you have worked out what you believe to be a firm agreement, they announce that they must take it to someone else for approval. This is an attempt to renegotiate terms more favorable to them.
- Where the issue is one of possible misrepresentation of their intention to comply with the agreement, it is often possible to build compliance features into the agreement itself.

Suggested techniques for psychological warfare:

- You can ignore threats; you can take them as unauthorized, spoken in haste, or simply irrelevant. You can also make it risky to communicate them. Perhaps the best response to a threat, however, is to be principled.

- If you find the physical surroundings prejudicial, or they make a statement personally attacking you, do not hesitate to say so. In every case your job is to identify the problem, and be willing to raise it with the other side. You can then negotiate better physical circumstances in an objective and principled fashion.
- Warnings are much more legitimate than threats and are not vulnerable to counterthreats. If it seems appropriate to outline the consequences of the other side's action for them, suggest those that will occur independently of your will rather than those you could choose to bring about.

Suggested techniques for positional pressure tactics:

- What can you do when the other side refuses to negotiate altogether?
 - First, recognize the tactic as a possible negotiating ploy: an attempt to use their entry into negotiation as a bargaining chip to obtain some concession on substance. A variant on this ploy is to set preconditions for negotiations.
 - Second, talk about their refusal to negotiate. Communicate either directly or through third parties. Don't attack them for refusing to negotiate, but rather find out their interests in not negotiating. Suggest some options, such as negotiating through third parties, sending letters, or encouraging private individuals like journalists to discuss the issues.
 - Finally, insist on using principles.
- When dealing with extreme demands or "escalating demands", bring the tactic to their attention. Ask for principled justification of their position.
- Lock in tactics are an extreme commitment tactic designed to make it impossible to yield (publicly committing to a particular position so you can then say you can't agree to less). But lock-in tactics are gambles. You may call the other side's bluff and force them to make a concession, which they will then have to explain to their constituency. Avoid making the lock in commitment a central question. Deemphasize it so that the other side can more gracefully back down.
- Frequently one side will try to postpone coming to a decision until a time they think favorable (psychological pressure of a deadline). In addition to making delaying tactics explicit and negotiating about them, consider creating a fading opportunity for the other side. Look for objective conditions that can be used to establish credible deadlines, Start talks with a third company.

How do you reach closure on issues?

Here are some general principles worth considering:

- Before you even begin to negotiate, it makes sense to envision what a successful agreement might look like.
- It is usually a good idea to sketch the outlines of what an agreement might look like as part of your preparation.
- If you are as yet unable to reach consensus on a single option, try at least to narrow the range of options under consideration and then go on to another issue. Perhaps a better option or a trade- off possibility will occur later.
- One way to be firm without being positional is to separate your interests from ways to meet them. When a proposal is challenged, don't defend the proposal; rather explain again your underlying interests.
- Once an issue or group of issues is well explored, you should be prepared to make an offer.
- When you sense you are finally close to an agreement, consider giving the other side something you know to be of value to them and still consistent with the basic logic of your proposal. Make clear that this is a final gesture; you do not want to raise expectations of further concessions.

How to defuse strong negative emotions?

- Talk with the people on the other side about their emotions. Talk about your own. Focusing on feelings will underscore the seriousness of the problem, and it will also make the negotiations less reactive and more "pro- active." People will become more likely to work on the problem.
- Help them release those feelings. Perhaps the best strategy to adopt while the other side lets off steam is to listen quietly without responding to their attacks, and occasionally to ask the speaker to continue until he has spoken his last word. By doing so, you offer no support, you encourage them to speak, and the emotion dissipates.
- Don't react to emotional outbursts.
- Acts that would produce a constructive emotional impact on one side (A note, a statement of regret, a visit to a cemetery, delivering a small present, shaking hands or embracing, eating together) often involve little or no cost to the other.

KEITH'S FINAL NOTE

You should look for ways to make all of your negotiations a principled negotiation or a negotiation on the merits. This book offer wonderful strategies and techniques for doing so, and of course, at the core of a principled negotiation are the four basic points:

1. Separate the people from the problem
2. Focus on interests, not positions
3. Invent options for mutual gain
4. Insist on using objective criteria

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Make it a great day!

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