

Getting to Yes

Don't bargain over Positions

- Any method of negotiation may be fairly judged by three criteria:
 1. It should produce a wise agreement if agreement is possible
 2. It should be efficient
 3. It should be improve or at least not damage the relationship between the parties
- When there are many parties, positional bargaining is even worse. What is worse, once they have painfully developed and agreed upon a position, it becomes much harder to change it

SOFT	HARD	PRINCIPLED
Participants are friends	Participants are adversaries	Participants are problem-solvers
Goal is agreement	Goal is victory	Goal is a wise outcome reached efficiently and amicably
Make concessions to cultivate relationship	Demand concessions as a condition of relationship	Separate the people from the problem
Change your position easily	Dig in to your position	Focus on interests, not positions
Disclose your bottom line	Mislead as to your bottom line	Avoid having a bottom line
Answer: The one they will accept	Answer: The one you will accept	Develop multiple options to choose from
Yield to pressure	Apply pressure	Reason and be open to reasons; yield to principle, not pressure

- The game of negotiation takes place at two levels. At one level, negotiation addresses the substance; at another, it focuses on the procedure for dealing with the substance
- Each move you make within a negotiation is not only a move that deals with rent, salary, or other substantive questions; it also helps structure the rules of the game you are playing
- The four points of principled negotiation
 1. People: Separate the people from the problem
 2. Interests: Focus on interests, not positions
 3. Options: Generate a variety of possibilities before deciding what to do
 4. Criteria: Insist that the result be based on some objective standard

Separate the PEOPLE from the Problem

- Every negotiator has two kinds of interests: in the substance and in the relationship. A major consequence of the “people problem” in negotiation is that the parties’ relationship tends to become entangled with their discussions of substance. Anger over a situation may lead you to express anger towards some human being associated with it in your mind. Eg: “The kitchen is a mess”
- Ultimately, conflict lies not in objective reality, but in people’s heads. The difference exists because it exists in their thinking. 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
- It is true that a better understanding of their thinking may lead you to revise your own views about the merits of a situation. But that is not a *cost* of understanding their point of view, it is a *benefit*. It allows you to reduce the area of conflict, and it also helps you advance your newly enlightened self-interest
- It is too easy to fall into the habit of putting the worst interpretation on what the other side says or does. Moreover, it seems the “safe” thing to do, and it shows spectators how bad the other side really is. But the cost of interpreting whatever they say or do in its most dismal light is that fresh ideas in the direction of agreement are spurned, and subtle changes of position are ignored and rejected
- Even if blaming is justified, it is usually counterproductive. Under attack, the other side will become defensive and will resist what you have to say. They will cease to listen, or will strike back with an attack of their own. Assessing blame firmly entangles the people with the problem
- It is common in a negotiation to treat as “unimportant” those concerns of the other perceived as not standing in the way of an agreement. To the contrary, 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
- Look for opportunities to act inconsistently with their perceptions. Perhaps the best way to change their perceptions is to send them a message different from what they expect. Eg: Egypt-Israel-Sadat
- If you want the other side to accept a disagreeable conclusion, it is crucial that you involve them in the process of reaching that conclusion. Even if the terms of an agreement seem favourable, the other side may reject them simply out of a suspicion born of their exclusion from the drafting process
- Often in a negotiation people will continue to hold out not because the proposal on the table is inherently unacceptable, but simply because they want to avoid the feeling or

the appearance of backing down to the other side. If the substance can be phrased or conceptualized differently so that it seems a fair outcome, they will then accept it. Eg: Face-saving

- 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. Use symbolic gestures. Eg: sympathy, apology, regret
- There are three big problems in communication. First, negotiators may not be talking to each other, or at least not in such a way as to be understood. Rather than trying to talk to the partner into a more constructive step, they try to talk the spectators into taking sides. Even if you are talking directly and clearly to them, they may not be hearing you. This constitutes the second problem in communication. The third communication problem is misunderstanding
- Listen actively and acknowledge what is being said. If you can put their case better than they can, and refute it, you maximize the chance of initiating a constructive dialogue on the merits and minimize the chance of their believing you have misunderstood them
- Speak to be understood. To reduce the dominating and distracting effect that the press, home audiences, and third parties may have, it is useful to establish private and confidential means of communicating with the other side. You can also improve communication by limiting the size of the group meeting
- Knowing the other side personally really does help. It is much easier to attribute diabolical intentions to an unknown abstraction called the "other side" than to someone you know personally
- Face the problem, not the people. If the negotiators view themselves as adversaries in a personal face-to-face confrontation, it is difficult to separate their relationship from the substantive problem. A more effective way for the parties to think of themselves is as partners in a hardheaded, side-by-side search for a fair agreement advantageous to each. To help the other side change from a face-to-face orientation to side-by-side, you might raise the issue with them explicitly

Focus on INTERESTS, Not Positions

- The basic problem in negotiations lies not in conflicting positions, but in the conflict between each side's needs, desires, concerns, and fears
- For every interest there usually exist several possible positions that could satisfy it. All too people simply adopt the most obvious position. When you do look behind opposed

positions for the motivating interests, you can often find an alternative position which meets not only your interests but theirs as well

- Behind opposed positions lie shared and compatible interests, and conflicting ones
- To identify their interests: Ask "Why?". If you do, make clear that you are asking not for justification of this position, but for an understanding of the needs, hopes, fears or desires that it serves. Ask "Why not?" and think about their choice
- Realize that each side has multiple interests
- The most powerful interests are basic human needs like security, economic well-being, a sense of belonging, recognition, control over one's life. Negotiations are not likely to make much progress as long as one believes that the fulfilment of their basic needs is being threatened by the other
- If you want the other side to take your interests into account, explain to them what those interests are. Concrete details not only make your description credible, they add impact
- Part of the task of impressing the other side with your interests lies in establishing the legitimacy of those interests. You want them to feel not that you are attacking them personally, but rather that the problem you face legitimately demands attention
- Each of us tends to be concerned with his or her own interests that we pay too little heed to the interests of others. People listen better if they feel that you have understood them. They tend to think that those who understand them are intelligent and sympathetic people whose own opinions may be worth listening to. So if you want the other side to appreciate your interests, begin by demonstrating that you appreciate theirs
- If you want someone to listen and understand your reasoning, give your interests and reasoning first and your conclusions or proposals later
- The question "Why?" has two quite different meanings. One looks backward for a cause and treats our behaviour as determined by prior events. The other looks forward for a response and treats our behaviour as subject to our free will. You will satisfy your interests better if you talk about where you would like to go rather than where you have come from
- Having thought about your interests, you should go into a meeting not only with one or more specific options that would meet your legitimate interests but also with an open mind. An open mind is not an empty one
- It may not be wise to commit yourself to your position, but it is wise to commit yourself to your interests. This is the place in a negotiation to spend your aggressive energies

- One useful rule of thumb is to give support to the human beings on the other side equal in strength to the vigor with which you emphasize the problem. It is a combination of support and attack which works; either alone is insufficient
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Invent OPTIONS for Mutual Gain

- In most negotiations there are four major obstacles that inhibit the inventing of an abundance options: Premature judgement; Searching for the single answer; The assumption of a fixed pie; Thinking that “solving their problem is their problem”
- People see their job as narrowing the gap between positions, not broadening the options available. Since the end product of negotiation is a single decision, they fear that free-floating discussion will only delay and confuse the process
- To invent creative options, you will need to separate the act of inventing options from the act of judging them; to broaden the options on the table rather than look for a single answer; to search for mutual gains; to invent ways of making their decisions easy
- A brainstorming session with a few colleagues or friends can effectively separate inventing from deciding
- Before brainstorming; define a purpose, choose a few participants, change the environment, design an informal atmosphere, choose a facilitator
- During brainstorming; seat the participants facing the problem, clarify the ground rules including the no-criticism rule, brainstorm, record the ideas in full view
- After brainstorming; star the most promising ideas, invent improvements for promising ideas, set up a time to evaluate ideas and decide
- People facing each other tend to respond personally and engage in dialogue or argument; people sitting side by side in a semicircle of chairs facing a blackboard tend to respond to the problem depicted here
- Brainstorming with people from the other side is more difficult because of the increased risk that you will say something that prejudices the interests despite the rules established for a brainstorming session. You may disclose confidential information inadvertently or lead the other side to mistake an option you devise for an offer. Nevertheless, joint brainstorming sessions have the great advantages of producing ideas which take into account the interests of all those involved
- Task of inventing options involves four types of thinking. One is thinking about a particular problem. The second type of thinking is descriptive analysis. The third type

of thinking is to consider what ought to be done. The fourth and final type of thinking is to come up with some specific and feasible suggestions for action

- Three points about shared interests are worth remembering. First, shared interests lie latent in every negotiation. Second, shared interests are opportunities, not godsend. Third, stressing your shared interests can make the negotiation smoother and more amicable
- One way to dovetail interests is to invent several options all equally acceptable to you and ask the other side which one they prefer. You want to know what is preferable, not necessarily what is acceptable. You can then take that option, work with it some more, and again present two or more variants, asking which one they prefer. In this way, without anyone's making a decision, you can improve a plan until you can find no more joint gains
- We often try to influence others by threats and warnings of what will happen if they do not decide as we would like. Offers are usually more effective. Concentrate both on making them aware of the consequences they can expect if they do decide as you wish and on improving those consequences from their point of view

Insist on using Objective CRITERIA

- Ideally, to assure a wise agreement, objective criteria should be not only independent of will but also both legitimate and practical
- Objective criteria should apply, at least in theory, to both sides. You can use the test of reciprocal application to tell you whether a proposed criterion is fair and independent of either party's will
- A variation on the procedure of "one cuts, the other chooses" is for the parties to negotiate what they think is a fair arrangement before they go on to decide their respective roles in it
- 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
- Insisting that an agreement be based on objective criteria doesn't mean insisting that it be solely based on the criterion you advance. When each party is advancing a different standard, look for an objective basis for deciding between them, such as

which standard has been used by the parties in the past or which standard is more widely applied

- Agree on someone you both regard as fair and give him or her a list of the proposed criteria. Ask the person to decide which are the fairest or most appropriate for your situation. You are not asking the third party to settle your substantive dispute - just to give you advice on what standard to use in settling it
- The difference between seeking agreement on the appropriate principles for deciding a matter and using principles simply as arguments to support positions is sometimes subtle, but always significant
- Pressure can take many forms: a bribe, a threat, a manipulative appeal to trust, or a simple refusal to budge. In all these cases, the principled response is the same: invite them to state their reasoning, suggest objective criteria you think apply, and refuse to budge except on this basis

What If They Are More Powerful?

- While adopting a bottomline may protect you from accepting a very bad agreement, it may keep you both from inventing and from agreeing to a solution it would be wise to accept
- The reason you negotiate is to produce something better than the results you can obtain without negotiating. Best Alternative To a Negotiated Agreement - BATNA - that is the standard against which any proposed agreement should be measured. Your BATNA not only is a better measure but also has the advantage of being flexible enough to permit the exploration of imaginative solutions. Instead of ruling out any solution which doesn't meet your bottomline, you can compare a proposal with your BATNA to see whether it better satisfies your interests
- In order 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
- People think of negotiating power as being determined by resources like wealth, political connections, physical strength, friends, and military might. In fact, the relative negotiating power of two parties depends primarily upon how attractive to each is the option of not reaching agreement
- Vigorous explanation of what you will do if you do not reach agreement can greatly strengthen your hand. Attractive alternatives are not just sitting there waiting for you;

you usually have to develop them. Generating possible BATNAs requires three different 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 option that seems best

- If they think you lack a good alternative when in fact you have one, then you should almost certainly let them know. You should also think about the alternatives to a negotiated agreement available to the other side. The more you can learn of their options, the better prepared you are from negotiation. Knowing their alternatives, you can realistically estimate what you can expect from the negotiation. If they appear to overestimate their BATNA, you will want to lower their expectations
- The stronger they appear in terms of physical or economic power, the more you benefit by negotiating on the merits

What If They Won't Play?

- There are three basic approaches for focusing their attention on the merits. The first centers on what you can do. You yourself can concentrate on the merits, rather than on positions. If this doesn't work and they continue to use positional bargaining, you can resort to a second strategy which focuses on what they may do. It counters the basic moves of positional bargaining in ways that direct their attention to the merits. This strategy is called *negotiation jujitsu*. The third approach focuses on what a third party can do. If neither principled negotiation nor negotiation jujitsu gets them to play, consider including a third party trained to focus the discussion on interests, options, and criteria. Perhaps the most effective tool a third party can use in such an effort is the one-text mediation procedure
- If the other side announces a firm position, you may be tempted to criticize and reject it. If they criticize your proposal, you may be tempted to defend it and dig yourself in. If they attack you, you may be tempted to defend yourself and counterattack. Instead of pushing back, sidestep their attack and deflect it against the problem. When the other side sets forth their position, neither reject it nor accept 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
- Those engaged in negotiation jujitsu use two key tools. The first is to use questions instead of statements. Statements generate resistance, whereas questions generate answers. Questions allow the other side to get their points across and let you understand them. They pose challenges and can be used to lead the other side to confront the problem. Questions offer them no target to strike at, no position to attack. Questions do not criticize, they educate

- Silence is one of your best weapons. Use it. If they have made an unreasonable proposal or an attack you regard as unjustified, the best thing to do may be to sit there and not say a word. If you have asked an honest question to which they have provided an insufficient answer, just wait. People tend to feel uncomfortable with silence, particularly if they have doubts about the merits of something they have said
- A third party can also separate inventing from decision-making, reduce the number of decisions required to reach agreement, and help the parties know what they will get when they do decide. One process designed to enable a third party to do all this is known as the *one-text procedure*. You do not have to get anyone's consent to start using the one-text procedure. Simply prepare a draft and ask for criticism. Again, you can change the game simply by starting to play the new one. Even if the other side is not willing to talk to you directly (or vice versa), a third party can draft around

What If They Use Dirty Tricks?

- There are three steps in negotiating the rules of the negotiating game where the other side seems to be using a tricky tactic: recognize the tactic, raise the issue explicitly, and question the tactic's legitimacy and desirability - negotiate over it
- Ambiguous authority. The other side may allow you to believe that they have full authority to compromise when they don't. After they have pressed you as hard as they can and 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 technique is designed to give them a "second bite at the apple." This is a bad situation to fall into. If only you have authority to make concessions, only you can make concessions
- Dubious intentions. 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
- Good-guy/bad-guy routine: Two people on the same side will stage a quarrel. One will take a tough stand. His partner looks pained and a little embarrassed
- Refusal to negotiate can be an attempt to use their entry into negotiation as a bargaining chip to obtain some concession on substance
- Making an extreme demand that both you and they know will be abandoned undermines the credibility. Such an opening may also kill the deal; if they offer too little, you may think they are not worth bothering with
- A negotiator may raise one of his demands for every concession he makes on another. He may also reopen issues you thought had been settled. The benefits of this

tactic lie in decreasing the overall concession, and in the psychological effect of making you want to agree quickly before he raises any more of his demands

- Perhaps the most common negotiating tactic used to justify not yielding to your requests is for the other negotiator to say that he personally would have no objection but his hardhearted partner will not let him
- Frequently one side will try to postpone coming to a decision until a time they think favourable. Waiting for the right time is a high-cost game