

# Chapter 2 : Strategies in distributive situation

=> Guard information carefully

**Target Point:** The point at which a negotiator would like to conclude the negotiation

**Resistance Point:** The bottom line of the negotiator (reservation price)

Start under the target point to make concessions. (Initial offer)

Not too low because the other party might break off negotiation. (resistance point)

You should keep your resistance point secret.

You must discover the other party resistance point and maybe make it change.

If you know your BATNA very well, you can know if you'd better walk away

If alternatives are attractive, negotiators can:

- Set their goals higher
- Make fewer concessions

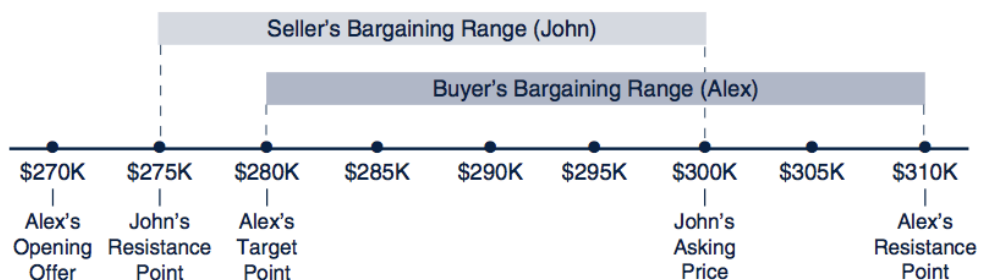
If there are no attractive alternatives:

- Negotiators have much less bargaining power

**Bargaining zone :** The space between the resistance points of the negotiators (zone of potential agreement). Its positive if Alex offers 200 max and John want 150min. It's negative when John wants 300 but Alex offers 200max.

A negative bargaining zone at the beginning often lead to a stalemate, but it can succeed if one party change his resistance point.

Your settlement point should be between your resistance point and target point, if one's not pleased with the agreement he might be annoying in the future.



To change a resistance point you should know :

- 1) the value attached to the outcome
- 2) the cost to delay the negotiation (if you can wait forever, they won't ask much)
- 3) the cost to abort the negotiation

How to proceed :

- assess target & resistance point
- manage
- modify
- manipulate (disruptive action=raise cost of delay, alliance with outsiders)

**Anchoring effect** : people who make decisions under uncertain conditions are influenced by initial starting numbers.

An ambitious offer will give the negotiator more information about the other party conditions.

- 1) opening offer
- 2) opening stance (=posture)
- 3) initial concessions
- 4) pattern of concession making (making fewer concessions makes you look you reached the resistance point)
- 5) final offer
- 6) closing the deal

**Hardball tactics** :

- good and bad com
  - low/highball (extreme offers)
  - bogey (not important is told important)
  - the nibble (you negotiate for the suit and ask to get the tie for free)
  - intimidation
  - aggressive behaviour
  - snow job (overwhelm with too much informations so you don't know which ones are real and important)
- ignore them
  - discuss them
  - use one hardball tactic
  - be friendly before they use them

# Chapter 4 : Planning and strategy

## Goals :

- substantive (money)
- intangible (winning, beating the other party)
- procedural (shaping an agenda, having a voice at the table)

You should list what you wish to achieve in the negotiation, know your priorities, identify potential multi-goal packages and evaluate trade-offs among multiple goals.

Wishes are not goals. Wishes can be related to interests or needs that motivates goals.

Goals are often linked ton the other party's goal.

They must be measurable, attainable, specific, concrete. (MASC)

You should consider long-term goals (indirect effects) : forging a relationship.

## Planning :

1. **defining the issues** : there are maybe more than just one issue
2. **assembling issues and defining the bargaining mix** : priorities, are issues linked or separate
3. **defining interests** : substantive, process-based or relationship-based
4. **defining limits and alternatives** : resistance point and alternatives.
5. **defining your objectives and opening bids** : target point, asking price
6. **analyzing the other party** : know their resources, issues, bargaining mix, interests, needs, targets, strategies
7. **planning the issue presentation and defence**
8. **defining protocol** : when, where, how to keep track of what is agreed, what is done if it fails

**Strategy** : The overall plan to accomplish one's goals in a negotiation and the action sequences that will lead to the accomplishment of those goals.

**Tactics** : short-term adaptive moves designed to enact or pursue broad strategies.

Tactics are subordinate to strategy

Tactics are driven by strategy

**Planning**: The "action" component of the strategy process, how will I implement the strategy

**Unilateral:** One that is made without active involvement of the other party

**Bilateral:** One that considers the impact of the other's strategy on one's own

FIGURE 4.2 | The Dual Concerns Model

|                               |     | Substantive outcome important? |               |
|-------------------------------|-----|--------------------------------|---------------|
|                               |     | Yes                            | No            |
| Relational outcome important? | Yes | Collaboration                  | Accommodation |
|                               | No  | Competition                    | Avoidance     |

Avoidance: Don't negotiate

Competition: I gain, ignore relationship

Collaboration: I gain, you gain, enhance relationship

Accommodation: I let you win, enhance relationship

**Avoidance** : If one is able to meet one's needs without negotiating at all, it may make sense to use an avoidance strategy. It simply may not be worth the time and effort to negotiate. The decision to negotiate is closely related to the desirability of available alternatives.

**Competition** - distributive, win-lose bargaining

**Collaboration** - integrative, win-win negotiation

**Accommodation** - involves an imbalance of outcomes ("I lose, you win")

# Chapter 7 : Negotiation power and persuasion

**Power** : the degree one can satisfy the *purposes* (goals, desires, or wants) that he is attempting to fulfill in that situation

Two perspectives on power:

- Power used to dominate and control the other- **“power over”**
- Power used to work together with the other- **“power with”**

There are 4 ways to acquire power :

- Informational sources of power
- Power based on position in an organization
- Relationship-based sources of power
- Contextual sources of power

| Source of Power    | Description   |
|--------------------|---|
| Informational      | <ul style="list-style-type: none"> <li>• <b>Information.</b> The accumulation and presentation of data intended to change the other person's point of view or position on an issue.</li> <li>• <b>Expertise.</b> An acknowledged accumulation of information, or mastery of a body of information, on a particular problem or issue.<br/><br/>Expertise power can be positive (we believe the other because of their acknowledged expertise) or negative (we so distrust the other that their claimed expertise leads us to pursue a course of action opposite to the one they advocate).</li> </ul>  |
| Position-based     | <p>Power derived from being located in a particular position in an organizational or communication structure; leads to several different kinds of leverage:</p> <ul style="list-style-type: none"> <li>• <b>Legitimate power</b>, or formal authority, derived from occupying a key position in a hierarchical organization. However, legitimate power can also influence social norms, such as <ul style="list-style-type: none"> <li>• <b>Reciprocity</b>, or the expected exchange of favours</li> <li>• <b>Equity</b>, or the expected return when one has gone out of one's way for the other</li> <li>• <b>Dependence</b>, or the expected obligation one owes to others who cannot help themselves</li> </ul> </li> <li>• <b>Resource control</b>, or the accumulation of money, raw material, labour, time, and equipment that can be used as incentives to encourage compliance or as punishments for noncompliance<br/><br/>Resource control is manifested in <ul style="list-style-type: none"> <li>• <b>Reward power</b>, the use of tangible rewards or personal approval to gain the other's compliance</li> <li>• <b>Punishment power</b>, the use of tangible punishments or withholding of personal approval to gain the other's compliance</li> </ul> </li> </ul> |
| Relationship-based | <ul style="list-style-type: none"> <li>• <b>Goal interdependence</b>—how the parties view their goals</li> <li>• <b>Referent power</b>—based on an appeal to the other based on common experiences, group membership, status, etc.<br/><br/>Referent power can also be positive (we believe the other because we respect them) or negative (we so disrespect the other that we pursue a course of action opposite to the one they advocate).</li> <li>• <b>Access to or control over information, resources supply flows, or access</b>, derived from location within flows in a network</li> </ul>   |
| Contextual         | <ul style="list-style-type: none"> <li>• Power derived from the context in which negotiations take place<br/><br/>Common sources of contextual power are <ul style="list-style-type: none"> <li>• Availability of BATNAs</li> <li>• Organizational and national culture</li> <li>• Availability of agents, constituencies, and audiences who can directly or indirectly affect the outcomes of the negotiation</li> </ul> </li> </ul>   |

How to work when people have more power than you :

- **Never do an all-or-nothing deal** it leaves the low-power party highly vulnerable.
- **Make the other party smaller** it's best to deal with different individuals and departments in the high-power party, it diversifies the relationships and interests that may be served.
- **Make yourself bigger** build coalitions with other low-power players
- **Build momentum through doing deals in sequence**
- **Use the power of competition to leverage power** think about your BATNA
- **Constrain yourself** limit the ways you can do business or who you do business with
  - **Good information is always a source of power** seek out information that strengthens your negotiating position. Anticipate to be maximally persuasive.
- **Try to manage the process** : you'll be more likely to steer the deal in an advantageous direction.

**Persuasion** : The actual strategies and messages that individuals deploy to bring about desired attitudinal or behavioral change. People differ widely in their ability to use influence effectively

- Persuasion is as much a science as a native ability
- Everyone can improve persuasive skills

**Central route** Occurs consciously and involves integrating the message into the individual's previously existing cognitive structures (thoughts, frameworks, etc.).

There are three major issues to consider when constructing a message:

- The **content** of the message : Facts and topics that should be covered
    - Make the **offer attractive** to the other party
    - Motivation of **framing** - Highlight what they stand to lose
    - **Frame the message** so the other party will say "yes" (ex : neighbourhood to sell a house)
    - Make the message **normative** – by following a course of action he will be acting in accordance with both his values and some higher code of conduct (e.g. "save a tree")
    - Suggest an "**agreement in principle**"
  - The **structure** of the message : Arrangement and organization of the topics and facts
    - **One-sided messages**: ignore arguments & opinions that might support the other party's position
    - **Two-sided messages**: mention and describe the opposing point of view and show how and why it is less desirable
    - **Message components** Negotiators can help the other party understand and accept their arguments by breaking them into smaller, more understandable pieces
- Repetition* : Enhances the likelihood that the message will be understood
- Conclusions* ; With people who are very intelligent, or have not yet made up their minds, leave the conclusion open. For people whose ideas are already well-formulated and strong, state the conclusion

- The **delivery** style : How the message should be provided
  - Encourage active participation
  - Use vivid language and metaphors
  - Incite fears
  - Violate the receiver's expectations

**Peripheral route** Characterized by subtle cues and context, with less cognitive processing of the message and is thought to occur automatically. The receiver attends less to the substance of persuasive arguments and is instead susceptible to more "automatic" influence through subtle cues. Usually occurs when the target of influence is either unmotivated or unable to attend carefully to the substance contained within a persuasive message.

## Messages that encourages peripheral influence

**Message order** : Important points should be made early exposing the receiver to the **primacy effect** when it is interesting (=the tendency for the first item in a list to be most easily remembered) vs **recency effect** (=tendency for the last item in a list to be more easily remembered) when it's not very important

**Distractions** : When receivers are distracted, they are less able to engage in issue-relevant thinking

## Source characteristics that encourage peripheral influence

**Source credibility** : Qualifications, Trustworthiness, Self Presentation

- Personal reputation for integrity
- "Benefit-of-the-doubt" first impressions
- Intention to persuade
- Use or minimize status differences
- Appearance and self-presentation
- Associates
- Perceived expertise
- Persistence and tenacity
- Mention weaknesses early to build trustworthiness

**Personal attractiveness**, Friendliness and likeability, Perceived similarity

**Authority** People with authority have more influence than those without authority  
Is this authority truly an expert?

How truthful can you expect this expert to be?

## Context that encourage peripheral influence

**Reciprocity** When you receive something from another, you should respond in the future with a favor in return. **Norm of reciprocity.**

**Commitment** Once people have decided something, they can be remarkably persistent in their beliefs.

**Commitment to a position** (=personal and interpersonal pressure to remain consistent once we have taken a stance on something)

**Social Proof** People often behave in certain ways because everyone else is doing so. Judging the appropriateness of our response based on the extent to which others are doing or thinking the same thing.

**Scarcity** : When things are less available, they will have more influence

### **Use of reward and punishment**

Exchange relies on resources as the power base: "If I do X for you, will you do Y for me?"

Threat of punishment

## The role of receivers

Exploring or ignoring the other's position

- Selectively paraphrase
- Reinforce points you like in the other party's proposals

Resisting the other's influence

- Have a BATNA and know how to use it
- Make a public commitment
- Inoculate yourself against the other party's arguments

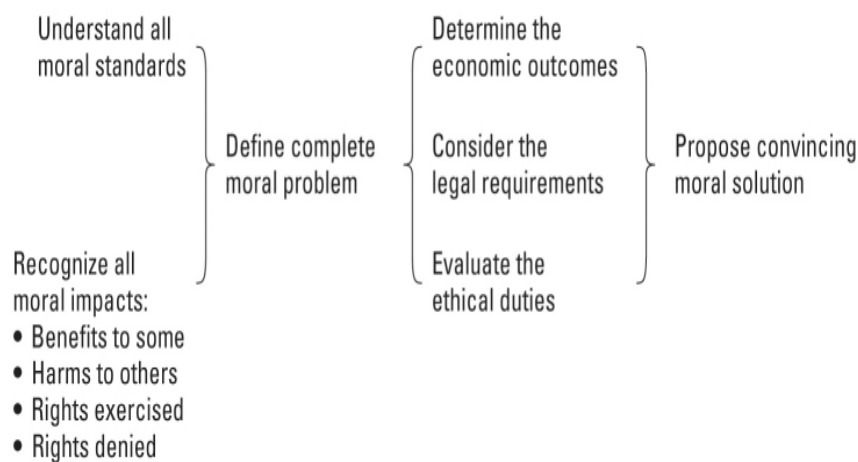
# Chapter 9 : Deception and ethical dilemmas

**Ethics** : Are broadly applied social standards for what is right or wrong in a particular situation, or a process for setting those standards.

Grow out of particular philosophies which :

- Define the nature of the world in which we live
- Prescribe rules for living together

**Ethical dilemma** : when possible actions or strategies put the potential economic benefits of doing a deal in conflict with one's social obligations to other involved parties.



## Approaches to ethical reasoning

**End-result ethics** : The rightness of an action is determined by evaluating its consequences

**Duty ethics** : The rightness of an action is determined by one's obligation to adhere to consistent principles, laws and social standards that define what is right and wrong

**Social contract ethics** : The rightness of an action is based on the customs and norms of a particular society or community

**Personalistic ethics** : The rightness of the action is based on one's own conscience and moral standards

## Ethical reasoning & negotiation

Deception by omission versus commission

- Omission – failing to disclose information that would benefit the other
- Commission – actually lying about the common-value issue (it's not true)

## Why use deceptive tactics ?

### **The power motive**

The purpose of using ethically ambiguous negotiating tactics is to increase the negotiator's power in the bargaining environment.

### **Other factors leading to unethical behaviour**

Situational factors

Individual factors : characteristics of the person

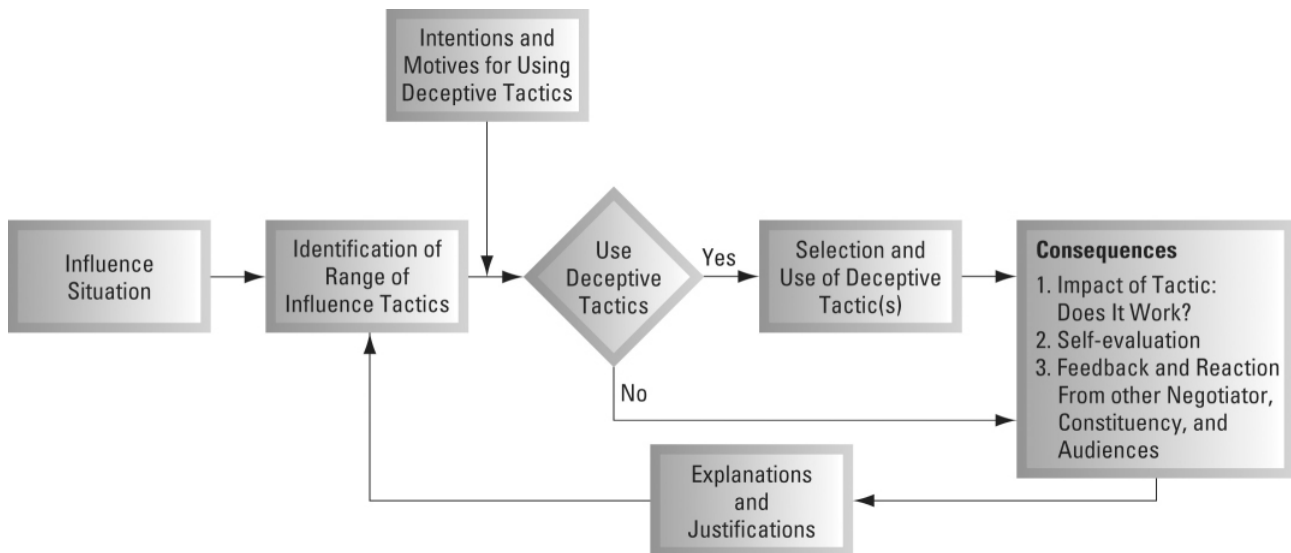
## Consequences of unethical conduct ?

Consequences can be negative or positive:

- Depend on tactic effectiveness
- how the other person, constituencies, and audiences evaluate the tactic
- how the negotiator evaluates the tactic

Those who employ deceptive tactics rationalize with the following reasons

- The tactic was unavoidable
- Tactic was harmless
- "They were going to do it anyway, I will do it first"



## How to deal with the other party's use of deception ?

- Ask probing questions (ask for additional infos)
- Use contingency contracts (think he cannot do your renovation at this date, say you want a late penalty)
- Force the other party to lie or back off
- "Call" the tactic (i know you lie)
- Discuss what you see and offer to help the other party change to more honest behaviors
- Respond in kind
- Ignore the tactic

## How to avoid temptation to lie

- Consider the reputation costs
- Prepare to answer difficult questions
- Refuse to answer certain questions:
  - "This is a discussion we can have later on, once we have both committed to the deal. I don't feel comfortable divulging that information at this time."
  - "As you can undoubtedly understand, we cannot share that information for strategic reasons."
  - "The answer to your question depends on many other factors that we need to discuss"

Lies can seem acceptable if :

they are harmless, unavoidable or if you think they are also going to lie.

# Chapter 10 : Multiparty and team negotiations

## Differences between two-party and multiparty negotiations

- Number of parties : multiparty negotiations have more negotiators at the table
- Informational and computational complexity : more issues, perspectives and information
- Social complexity
- Procedural complexity
- Strategic complexity

## How to manage them

### 1. The pre-negotiation stage

- Characterized by many informal contacts among the parties  
Establish participants
- Form coalitions
- Define group member roles
- Understand the costs and consequences of no agreement
- Learn the issues and construct an agenda
- Agendas as effective decision aids:
- Establish the issues that will be discussed
- Define how each issue is discussed
- Set the order in which issues are discussed
- Introduce process issues (decision rules, discussion norms, member roles, discussion dynamics), and substantive issues
- Assign time limits to various items

### 2. The formal negotiation stage

Structures a group discussion to achieve an effective and endorsed result.

- Appoint an appropriate chair
- Use and restructure the agenda
- Ensure diversity of information and perspectives
  - Collect thoughts and composure before speaking
  - Understand the other person's position
  - Think of ways both parties can win
  - Consider the importance of the issue
  - Remember parties will likely work together in the future

- Ensure consideration of all available information
  - The Delphi technique
    - An initial questionnaire, sent to all parties, asking for input
  - Brainstorming
    - Define a problem and generate as many solutions as possible without criticizing any of them
  - Nominal group technique
    - Brainstormed list of solutions ranked, rated, or evaluated
- Manage conflict effectively
- Review and manage the decision rules
- Strive for a first agreement
- Manage problem team members
  - Be specific about problem behaviors
  - Describe problem as team problem ("we vs you")
  - Focus on behaviors the other can control
  - Wait to give constructive criticism
  - Keep feedback professional
  - Verify that the other has heard and understood

### **3. The agreement phase**

Parties select among the alternatives on the table. Select the best solution, develop an action plan, evaluate the just-completed process.

- Select the best solution
- Develop an action plan
- Implement the action plan
- Evaluate the just-completed process

Group chair or facilitator steps in moving toward a successful completion:

- Move the group toward selecting one or more of the options
- Shape and draft the tentative agreement
- Discuss whatever implementation and follow-up needs to occur
- Thank the group for their participation, hard work and efforts
- Organize and facilitate the postmortem

## Team negotiation

- Integrative agreements more likely when teams are involved
- Teams are sometimes more competitive than individuals and may claim more value
- Accountability pressures are different for teams
- Relationship among team members affects negotiation process and outcomes

Build the team considering diverse expertise

- Negotiation expertise
- Technical expertise
- Interpersonal skills

If possible:

- Prepare individually first and then meet as a team to discuss each persons' ideas

Strategic issues:

- Opening offer?
- What roles will each member take  
e.g., lead negotiator, process manager, number cruncher, scribe, bad cop, etc.
- How will the team know when to take a break or call for a caucus?
- Anticipate the need to communicate within the context of the negotiation.  
e.g., use of non-verbal communication

### **Information processing**

Tendency to withhold information that is unique (even though this is often the reason for creating a team in the first place)

### **Stereotyping**

Teams often create extreme stereotypes of the other side

### **Group extremism**

Groups often take more extreme positions than individuals (called group polarization)

# Chapter 11 : Managing difficult negotiations

## Main motives for difficult behaviour

- Intentional  
Clear strategic, behavioural, or philosophical choice by the other party
- Due to inadequate skill  
Faulty diagnosis of negotiation opportunities  
the other party just doesn't see any value or potential for a collaborative approach or doesn't know how to craft and pursue such an approach

## Responding

### **Identifying Distributive Behaviour**

Distributive tactics that the other party uses in a negotiation to put pressure on negotiators to do something that is not in their best interests

Responses :

- **Call them on it**  
Discuss Tactic  
Can be embarrassing to party using tactic
- **Ignore them**  
Defuse effect of tactic  
Not always effective
- **Respond in Kind**  
May be appropriate  
Likely escalates conflict
- **Offer To Change To more Productive Methods**  
Negotiate over the negotiation tactics used  
Aggressive negotiator who continues this behaviour will face costs  
The aggressive negotiator may hopefully respond to a more integrative approach

## When the other party is powerful

- High power parties pay little heed to low-power parties
- Low-power parties don't get needs met or use disruptive, attention-getting tactics that make collaboration difficult
- Low power parties are not usually in position to trigger and advance integrative process

**How to respond :**

**Protect Themselves**

Remember resistance point and stick to it

**Cultivate BATNA**

Improved BATNA = increased power

Counterparty must be aware that alternative exists

**Formulate trip wire alert system**

Early warning signal when bargaining enters "warning zone"

**Correct Imbalance**

Low-power parties take power : Use disruptive techniques instead

High-power parties give power : Share resources, control, focus on common interests, educate low-power party on their power and how to use it

Sharing power facilitates integrative negotiation.

When one party does have power over the other, frequently the best outcome the high-power party can achieve is compliance rather than enthusiastic cooperation.

## Ultimatums

**Identifying an Ultimatum**

An ultimatum is an attempt to induce compliance or force concessions from a presumably recalcitrant opponent

1. A demand;
2. An attempt to create a sense of urgency, such that compliance is required; and
3. A threat of punishment if compliance does not occur

**Effects of using an Ultimatum**

Often fall prey to escalation problems, through severe action-reaction spirals.

Reactions go beyond the violation of simple fairness concerns and touch on moral disagreement

The pervasive unhappiness can taint future dealings between the parties, sometimes permanently.

**Responding to Ultimatums**

***Try a reasonable approach:***

- be forthright in addressing the ultimatum
- make sensible, reasonable counteroffers;
- Attempt to engage the offerer in joint problem solving

***"Yes But..."***

The initiator is perceived as behaving unethically and ignores appeals to reason

The respondent is truly interested in the basic offer but needs more time to consider it

There are issues central to the deal that genuinely need clarification

## When the other side is difficult

- Negotiator does not know any other way to negotiate
- Other party has a difficult personality and acts consistently inside and outside the negotiation context

Ury's "Breakthrough Approach" suggests creating a favourable negotiation environment

- Regaining mental balance and controlling one's own behaviour;
- helping the other party achieve similar balance and control;
- changing the approach from a distributive to an integrative one;
- overcoming the other party's skepticism by jointly crafting a mutually satisfactory agreement;
- Achieving closure through firm, even-handed use of negotiating power.

5 steps to Ury's "Breakthrough Approach"

1. ***Don't React, Go to the Balcony*** : Psychologically remove themselves from the interaction
2. ***Disarm Them–Step to Their Side*** : listen to and acknowledge the other party's legitimate points, needs, and concerns
3. ***Change the Game–Don't Reject, Reframe*** : Reframe tactics, ask open-ended questions
4. ***Make It Easy to Say Yes–Build Them a Golden Bridge*** : Involve them in the design of an agreement & Help them save face
5. ***Make It Hard to Say No–Bring Them to Their Senses, Not Their Knees*** : Present consequences of not coming to a deal, use and reiterate BATNA

*Preparation :*

- Understand your comfort level
- Visualize how the conversation will unfold
- Practise the upcoming difficult conversation with a neutral party
- Construct a team that has wide variety of strengths and weaknesses when dealing with difficult others

*Managing the Conversation*

### **Clarity**

- Use precise language
- Avoid euphemisms

### **Tone**

- Strike a neutral tone when having a stressful conversation, especially if it is about bad news.
- A negative tone along with bad news will likely increase their motivation for revenge in the future

### **Temperate Phrasing**

- Choose language carefully to deliver a message that will not provoke the other side.

# Chapter 13 : Best practices in negotiations

## **1. Be prepared**

- Understand and articulate your goals and interests
- Set high but achievable aspirations for negotiation

## **2. Diagnose the fundamental structure of the negotiation**

- Make conscious decisions about the nature of the negotiation: is it a distributive or integrative negotiation or blend of the two
- Choose strategies and tactics accordingly

## **3. Identify and work the BATNA**

- Be vigilant about the BATNA
- Be aware of the other negotiator's BATNA

## **4. Be willing to walk away**

- Strong negotiators are willing to walk away when no agreement is better than a poor agreement
- Have a clear walkaway point in mind where you will halt the negotiation

## **5. Master the key paradoxes of negotiation**

- Claiming value versus creating value
- Sticking by your principles versus being resilient to the flow
- Sticking with the strategy versus opportunistic pursuit of new options
- Facing the *dilemma of honesty*: honest and open versus closed and opaque
- Facing the *dilemma of trust*: trust versus distrust

## **6. Remember the intangibles**

- "See what is not there"
- Ask questions
- Take an observer or listener with you to the negotiation

## **7. Actively manage coalitions**

- Coalitions against you
- Coalitions that support you
- Undefined coalitions that may materialize for or against you

## **8. Savor and protect your reputation**

- Start negotiation with a positive reputation
- Shape your reputation by acting in a consistent and fair manner

## **9. Remember that rationality and fairness are relative**

- Question your perceptions of fairness and ground them in clear principles
- Find external benchmarks of fair outcomes
- Engage in dialogue to reach consensus on fairness

## **10. Continue to learn from the experience**

- Practice the art and science of negotiation
- Analyze each negotiation
  - Plan a personal reflection time after each negotiation
  - Periodically "take a lesson" from a trainer or a coach
  - Keep a personal diary on strengths and weaknesses and develop a plan to work on weaknesses

# Getting to Yes !

## 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
- 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.
- 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.
- 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 Let me see if I understand what you're saying
- 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:**
  - 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."

# 12 angry men

The play is set in a New York City Court of Law jury room in 1957. The play opens to the empty jury room, and the Judge's voice is heard, giving a set of final instructions to the jurors. We learn that this is a murder case and that, if found guilty, the mandatory sentence for the accused is the death penalty. After these instructions, the jurors enter.

The men file in and decide to take a short break before deliberating. They complain that the room is hot and without air-conditioning; even the fan doesn't work. All the jurors presume the obvious guilt of the defendant, whom we learn has been accused of killing his father. Eventually, the twelve sit down and a vote is taken. All of the jurors vote "guilty," except for the 8th Juror, who votes "not guilty," which, due to the requirement of a unanimous jury, forces them to discuss the case.

The jurors react violently against this dissenting vote. Ultimately, they decide to go around the table, explaining why they believe the boy to be guilty, in hopes of convincing 8th Juror.

Through this discussion we learn the following facts about the case: an old man living beneath the boy and his father testified that he heard upstairs a fight, the boy shouting, "I'm gonna kill you," a body hitting the ground, and then he saw the boy running down the stairs. The boy claimed he had been at the movies while his father was murdered, but couldn't remember the name of the movies or who was in them. A woman living across the street testified that she saw the boy kill his father through the windows of a passing elevated train. The boy had, that night, had an argument with his father, which resulted in the boy's father hitting him twice. Finally, the boy has an extensive list of prior offenses, including trying to slash another teenager with a knife.

There is a strong rallying against the defendant. 3rd Juror compares him to his own son, with whom he was estranged, and 10th Juror reveals strong racist tendencies against the defendant.

When a discussion about the murder weapon, which was identified as the knife purchased by the defendant, a "one-of-a-kind" knife, begins, 8th Juror surprises the others by presenting an identical knife he had purchased in a pawn shop two blocks from where the boy lived a few nights prior, shattering the claim that the knife was so unique and identifiable.

8th Juror makes a proposition that the other eleven of them could vote, and if all of them voted "not guilty," he would not stand alone and would go along with their guilty verdict. They agree to this and vote by secret ballot. The vote is 10 "guilty" votes and 1 "not guilty" vote, and so the deliberation continues.

Immediately, the jurors turn on 5th Juror, accusing him of having changed his vote out of sympathy for the boy. 9th Juror stands and admits to having changed his vote because he'd like to hear the arguments out.

8th Juror calls into question the validity of the testimony of the old man living downstairs. 9th Juror provides the possibility that the old man was only testifying to feel important. 8th Juror concludes by saying that even if he did hear him say, "I'm gonna kill you," that very well could be taken out of context as just a figure of speech. With this 5th Juror changes his vote to "not guilty," and the vote is 9-3 in favor of guilty.

After another heated discussion which raises the question of why the boy would have returned home, after killing his father, they take another vote. This time, 5th, 8th, 9th, and 11th vote "not guilty," and the deliberation continues.

After a brief argument, 8th Juror brings into question whether or not the downstairs neighbor, an old man who had suffered a stroke and could only walk slowly, could have gotten to the door to see the boy run down the stairs in fifteen seconds, as he had testified. 8th Juror recreates the floor plan of the apartment, while 2nd Juror times him, and they conclude that he would not have been able to reach his door in fifteen seconds.

3rd Juror reacts violently to this and ends up attacking 8th Juror, shouting, "God damn it! I'll kill him! I'll kill him." 8th Juror asks, "You don't really mean you'll kill me, do you?" proving his earlier point about how people say, "I'll kill you," when they don't really mean it.

Act II resumes in the same moment we left off with in Act I. After everything calms down, the jurors resume deliberations. Another vote is taken, and the jury is now six to six. They take a break. During this break, it begins to rain outside. Also, they are able to turn the fan on, cooling off the room.

When deliberations resume, 8th Juror attempts to break apart the testimony of the arresting police officer that the defendant was unable to name the movies that he had claimed to have seen that evening. He asserts that possibly the defendant just forgot the names of the films and who was in them "under great emotional distress."

Upon further discussion about the switchblade, it becomes questionable whether or not the defendant would have made the stab wound, "down and in," which would be contrary to his knowledge and experience with how to use such a knife.

The jurors take another vote, and it is now nine to three, all but 3rd, 4th, and 10th Juror are in favor of 'not guilty.' This launches 10th Juror in a massive bigoted rant, which ends with 4th Juror scolding him back into his seat.

9th Juror calls into question the eyewitness testimony of the woman living across the street, as she wore glasses but chose not to wear them in court, calling into question whether or not she would have been wearing them in bed, when she saw the murder through her window.

Now, the vote is 11 to 1, and 3rd Juror stands alone. At first, he stands firm, saying that he will be the holdout to make this a hung jury. He launches himself into a final massive rant against the boy that descends into nonsense. 8th and 4th Jurors make a short final plea, and 3rd Juror finally concedes, saying "All right. Not guilty." The Foreman informs the Guard that they have reached a verdict, and the Jurors leave the courtroom.