

The National Bestseller



**Second Edition with
Answers to Ten Questions People Ask**

GETTING TO YES

**Negotiating Agreement
Without Giving In**

Roger Fisher and William Ury

**& for the Second Edition, Bruce Patton
of the Harvard Negotiation Project**

I THE PROBLEM

1. Don't Bargain Over Positions

1 Don't Bargain Over Positions

Whether a negotiation concerns a contract, a family quarrel, or a peace settlement among nations, people routinely engage in positional bargaining. Each side takes a position, argues for it, and makes concessions to reach a compromise. The classic example of this negotiating minuet is the haggling that takes place between a customer and the proprietor of a secondhand store:

Customer

How much do you want for this brass dish?

Oh come on, it's dented. I'll give you \$15.

Well, I could go to \$20, but I would never pay anything like \$75. Quote me a realistic price.

Shopkeeper

That is a beautiful antique, isn't it? I guess I could let it go for \$75.

Really! I might consider a serious offer, but \$15 certainly isn't serious.

You drive a hard bargain, young lady. \$60 cash, right now.

Customer

\$25.

\$37.50. That's the highest I will go.

Shopkeeper

It cost me a great deal more than that. Make me a *serious* offer.

Have you noticed the engraving on that dish? Next year pieces like that will be worth twice what you pay today.

And so it goes, on and on. Perhaps they will reach agreement; perhaps not.

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. (A wise agreement can be defined as one that meets the legitimate interests of each side to the extent possible, resolves conflicting interests fairly, is durable, and takes community interests into account.)

The most common form of negotiation, illustrated by the above example, depends upon successively taking—and then giving up—a sequence of positions.

Taking positions, as the customer and storekeeper do, serves some useful purposes in a negotiation. It tells the other side what you want; it provides an anchor in an uncertain and pressured situation; and it can eventually produce the terms of an acceptable agreement. But those purposes can be served in other ways. And positional bargaining fails to meet the basic criteria of producing a wise agreement, efficiently and amicably.

Arguing over positions produces unwise agreements

When negotiators bargain over positions, they tend to lock themselves into those positions. The more you clarify your position

and defend it against attack, the more committed you become to it. The more you try to convince the other side of the impossibility of changing your opening position, the more difficult it becomes to do so. Your ego becomes identified with your position. You now have a new interest in "saving face"—in reconciling future action with past positions—making it less and less likely that any agreement will wisely reconcile the parties' original interests.

The danger that positional bargaining will impede a negotiation was well illustrated by the breakdown of the talks under President Kennedy for a comprehensive ban on nuclear testing. A critical question arose: How many on-site inspections per year should the Soviet Union and the United States be permitted to make within the other's territory to investigate suspicious seismic events? The Soviet Union finally agreed to three inspections. The United States insisted on no less than ten. And there the talks broke down—over positions—despite the fact that no one understood whether an "inspection" would involve one person looking around for one day, or a hundred people prying indiscriminately for a month. The parties had made little attempt to design an inspection procedure that would reconcile the United States's interest in verification with the desire of both countries for minimal intrusion.

As more attention is paid to positions, less attention is devoted to meeting the underlying concerns of the parties. Agreement becomes less likely. Any agreement reached may reflect a mechanical splitting of the difference between final positions rather than a solution carefully crafted to meet the legitimate interests of the parties. The result is frequently an agreement less satisfactory to each side than it could have been.

Arguing over positions is inefficient

The standard method of negotiation may produce either agreement, as with the price of a brass dish, or breakdown, as with the

number of on-site inspections. In either event, the process takes a lot of time.

Bargaining over positions creates incentives that stall settlement. In positional bargaining you try to improve the chance that any settlement reached is favorable to you by starting with an extreme position, by stubbornly holding to it, by deceiving the other party as to your true views, and by making small concessions only as necessary to keep the negotiation going. The same is true for the other side. Each of those factors tends to interfere with reaching a settlement promptly. 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.

The standard minuet also requires a large number of individual decisions as each negotiator decides what to offer, what to reject, and how much of a concession to make. Decision-making is difficult and time-consuming at best. Where each decision not only involves yielding to the other side but will likely produce pressure to yield further, a negotiator has little incentive to move quickly. Dragging one's feet, threatening to walk out, stonewalling, and other such tactics become commonplace. They all increase the time and costs of reaching agreement as well as the risk that no agreement will be reached at all.

Arguing over positions endangers an ongoing relationship

Positional bargaining becomes a contest of will. Each negotiator asserts what he will and won't do. The task of jointly devising an acceptable solution tends to become a battle. Each side tries through sheer will power to force the other to change its position. "I'm not going to give in. If you want to go to the movies with me, it's *The Maltese Falcon* or nothing." 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 thus strains and sometimes shatters the relationship between the parties. Commercial enterprises that have been doing business together for years may part company. Neighbors may

stop speaking to each other. Bitter feelings generated by one such encounter may last a lifetime.

When there are many parties, positional bargaining is even worse

Although it is convenient to discuss negotiation in terms of two persons, you and "the other side," in fact, almost every negotiation involves more than two persons. Several different parties may sit at the table, or each side may have constituents, higher-ups, boards of directors, or committees with whom they must deal. The more people involved in a negotiation, the more serious the drawbacks to positional bargaining.

If some 150 countries are negotiating, as in various United Nations conferences, positional bargaining is next to impossible. It may take all to say yes, but only one to say no. Reciprocal concessions are difficult: to whom do you make a concession? Yet even thousands of bilateral deals would still fall short of a multilateral agreement. In such situations, positional bargaining leads to the formation of coalitions among parties whose shared interests are often more symbolic than substantive. At the United Nations, such coalitions produce negotiations between "the" North and "the" South, or between "the" East and "the" West. Because there are many members in a group, it becomes more difficult to develop a common position. What is worse, once they have painfully developed and agreed upon a position, it becomes much harder to change it. Altering a position proves equally difficult when additional participants are higher authorities who, while absent from the table, must nevertheless give their approval.

Being nice is no answer

Many people recognize the high costs of hard positional bargaining, particularly on the parties and their relationship. They hope to avoid them by following a more gentle style of negotiation. Instead of seeing the other side as adversaries, they prefer to see

them as friends. Rather than emphasizing a goal of victory, they emphasize the necessity of reaching agreement. In a soft negotiating game the standard moves are to make offers and concessions, to trust the other side, to be friendly, and to yield as necessary to avoid confrontation.

The following table illustrates two styles of positional bargaining, soft and hard. Most people see their choice of negotiating strategies as between these two styles. Looking at the table as presenting a choice, should you be a soft or a hard positional bargainer? Or should you perhaps follow a strategy somewhere in between?

The soft negotiating game emphasizes the importance of building and maintaining a relationship. Within families and among friends much negotiation takes place in this way. The process tends to be efficient, at least to the extent of producing results quickly. As each party competes with the other in being more generous and more forthcoming, an agreement becomes highly likely. But it may not be a wise one. The results may not be as tragic as in the O. Henry story about an impoverished couple in which the loving wife sells her hair in order to buy a handsome chain for her husband's watch, and the unknowing husband sells his watch in order to buy beautiful combs for his wife's hair. However, any negotiation primarily concerned with the relationship runs the risk of producing a sloppy agreement.

More seriously, pursuing a soft and friendly form of positional bargaining makes you vulnerable to someone who plays a hard game of positional bargaining. In positional bargaining, a hard game dominates a soft one. If the hard bargainer insists on concessions and makes threats while the soft bargainer yields in order to avoid confrontation and insists on agreement, the negotiating game is biased in favor of the hard player. The process will produce an agreement, although it may not be a wise one. It will certainly be more favorable to the hard positional bargainer than to the soft one. If your response to sustained, hard positional

bargaining is soft positional bargaining, you will probably lose your shirt.

There is an alternative

If you do not like the choice between hard and soft positional bargaining, you can change the game.

The game of negotiation takes place at two levels. At one level, negotiation addresses the substance; at another, it focuses—usually implicitly—on the procedure for dealing with the substance. The first negotiation may concern your salary, the terms

Problem

Positional Bargaining: Which Game Should You Play?

Soft

Participants are friends.
The goal is agreement.
Make concessions to cultivate the relationship.
Be soft on the people and the problem.
Trust others.
Change your position easily.
Make offers.
Disclose your bottom line.

Accept one-sided losses to reach agreement.
Search for the single answer: the one *they* will accept.
Insist on agreement.
Try to avoid a contest of will.
Yield to pressure.

Hard

Participants are adversaries.
The goal is victory.
Demand concessions as a condition of the relationship.
Be hard on the problem and the people.
Distrust others.
Dig in to your position.
Make threats.
Mislead as to your bottom line.

Demand one-sided gains as the price of agreement.
Search for the single answer: the one *you* will accept.
Insist on your position.
Try to win a contest of will.
Apply pressure.

of a lease, or a price to be paid. The second negotiation concerns how you will negotiate the substantive question: by soft positional bargaining, by hard positional bargaining, or by some other method. This second negotiation is a game about a game—a “meta-game.” 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. Your move may serve to keep the negotiations within an ongoing mode, or it may constitute a game-changing move.

This second negotiation by and large escapes notice because it seems to occur without conscious decision. Only when dealing with someone from another country, particularly someone with a markedly different cultural background, are you likely to see the necessity of establishing some accepted process for the substantive negotiations. But whether consciously or not, you are negotiating procedural rules with every move you make, even if those moves appear exclusively concerned with substance.

The answer to the question of whether to use soft positional bargaining or hard is “neither.” Change the game. At the Harvard Negotiation Project we have been developing an alternative to positional bargaining: a method of negotiation explicitly designed to produce wise outcomes efficiently and amicably. This method, called *principled negotiation* or *negotiation on the merits*, can be boiled down to four basic points.

These four points define a straightforward method of negotiation that can be used under almost any circumstance. Each point deals with a basic element of negotiation, and suggests what you should do about it.

People: Separate the people from the problem.

Interests: Focus on interests, not positions.

Options: Generate a variety of possibilities before deciding what to do.

Criteria: Insist that the result be based on some objective standard.

The first point responds to the fact that human beings are not computers. We are creatures of strong emotions who often have radically different perceptions and have difficulty communicating clearly. Emotions typically become entangled with the objective merits of the problem. Taking positions just makes this worse because people's egos become identified with their positions. Hence, before working on the substantive problem, the "people problem" should be disentangled from it and dealt with separately. Figuratively if not literally, the participants should come to see themselves as working side by side, attacking the problem, not each other. Hence the first proposition: *Separate the people from the problem.*

The second point is designed to overcome the drawback of focusing on people's stated positions when the object of a negotiation is to satisfy their underlying interests. A negotiating position often obscures what you really want. Compromising between positions is not likely to produce an agreement which will effectively take care of the human needs that led people to adopt those positions. The second basic element of the method is: *Focus on interests, not positions.*

The third point responds to the difficulty of designing optimal solutions while under pressure. Trying to decide in the presence of an adversary narrows your vision. Having a lot at stake inhibits creativity. So does searching for the one right solution. You can offset these constraints by setting aside a designated time within which to think up a wide range of possible solutions that advance shared interests and creatively reconcile differing interests. Hence the third basic point: Before trying to reach agreement, *invent options for mutual gain.*

Where interests are directly opposed, a negotiator may be able to obtain a favorable result simply by being stubborn. That method tends to reward intransigence and produce arbitrary results. However, you can counter such a negotiator by insisting that his single say-so is not enough and that the agreement must reflect some fair standard independent of the naked will of either side. This does not mean insisting that the terms be based on the standard you select, but only that some fair standard such as market value, expert opinion, custom, or law determine the outcome. By discussing such criteria rather than what the parties are willing or unwilling to do, neither party need give in to the other; both can defer to a fair solution. Hence the fourth basic point: *Insist on using objective criteria.*

The method of principled negotiation is contrasted with hard and soft positional bargaining in the table below, which shows the four basic points of the method in boldface type.

The four propositions of principled negotiation are relevant from the time you begin to think about negotiating until the time either an agreement is reached or you decide to break off the effort. That period can be divided into three stages: analysis, planning, and discussion.

During the *analysis* stage you are simply trying to diagnose the situation—to gather information, organize it, and think about it. You will want to consider the people problems of partisan perceptions, hostile emotions, and unclear communication, as well as to identify your interests and those of the other side. You will want to note options already on the table and identify any criteria already suggested as a basis for agreement.

During the *planning* stage you deal with the same four elements a second time, both generating ideas and deciding what to do. How do you propose to handle the people problems? Of your interests, which are most important? And what are some realistic objectives? You will want to generate additional options and additional criteria for deciding among them.

Again during the *discussion* stage, when the parties commu-

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Search for the single answer: the one *they* will accept.

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Yield to pressure.

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Participants are adversaries.

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Demand concessions as a condition of the relationship.

Be hard on the problem and the people.

Distrust others.

Dig in to your position.

Make threats.

Mislead as to your bottom line.

Demand one-sided gains as the price of agreement.

Search for the single answer: the one *you* will accept.

Insist on your position.

Try to win a contest of will.

Apply pressure.

Solution

Change the Game—
Negotiate on the Merits

Principled

Participants are problem-solvers.

The goal is a wise outcome reached efficiently and amicably.

Separate the people from the problem.

Be soft on the people, hard on the problem.

Proceed independent of trust.

Focus on interests, not positions.

Explore interests.

Avoid having a bottom line.

Invent options for mutual gain.

Develop multiple options to choose from; decide later.

Insist on using objective criteria.

Try to reach a result based on standards independent of will.

Reason and be open to reason; yield to principle, not pressure.

nicate back and forth, looking toward agreement, the same four elements are the best subjects to discuss. Differences in perception, feelings of frustration and anger, and difficulties in communication can be acknowledged and addressed. Each side should come to understand the interests of the other. Both can then jointly generate options that are mutually advantageous and seek agreement on objective standards for resolving opposed interests.

To sum up, in contrast to positional bargaining, the principled negotiation method of focusing on basic interests, mutually satisfying options, and fair standards typically results in a *wise* agreement. The method permits you to reach a gradual consensus on a joint decision *efficiently* without all the transactional costs of digging in to positions only to have to dig yourself out of them. And separating the people from the problem allows you to deal directly and empathetically with the other negotiator as a human being, thus making possible an *amicable* agreement.

Each of the next four chapters expands on one of these four basic points. If at any point you become skeptical, you may want to skip ahead briefly and browse in the final three chapters, which respond to questions commonly raised about the method.

2 Separate the People from the Problem

■ Everyone knows how hard it is to deal with a problem without people misunderstanding each other, getting angry or upset, and taking things personally.

A union leader says to his crew, "All right, who called the walkout?"

Jones steps forward. "I did. It was that bum foreman Campbell again. That was the fifth time in two weeks he sent me out of our group as a replacement. He's got it in for me, and I'm tired of it. Why should I get all the dirty work?"

Later the union leader confronts Campbell. "Why do you keep picking on Jones? He says you've put him on replacement detail five times in two weeks. What's going on?"

Campbell replies, "I pick Jones because he's the best. I know I can trust him to keep things from fouling up in a group without its point person. I send him on replacement only when it's a key person missing, otherwise I send Smith or someone else. It's just that with the flu going around there've been a lot of point people out. I never knew Jones objected. I thought he liked the responsibility."

In another real-life situation, an insurance company lawyer says to the state insurance commissioner:

"I appreciate your time, Commissioner Thompson. What I'd like to talk to you about is some of the problems we've been having with the presumption clause of the strict-liability regulations. Basically, we think the way the clause was written causes

it to have an unfair impact on those insurers whose existing policies contain rate adjustment limitations, and we would like to consider ways it might be revised——”

The Commissioner, interrupting: “Ms. Monteiro, your company had ample opportunity to voice any objection it had during the hearings my department held on those regulations before they were issued. I ran those hearings, Ms. Monteiro. I listened to every word of testimony, and I wrote the final version of the strict-liability provisions personally. Are you saying I made a mistake?”

“No, but——”

“Are you saying I’m unfair?”

“Certainly not, sir, but I think this provision has had consequences none of us foresaw, and——”

“Listen, Monteiro, I promised the public when I campaigned for this position that I would put an end to killer hair dryers and \$10,000 bombs disguised as cars. And these regulations have done that.

“Your company made a \$50 million profit on its strict-liability policies last year. What kind of fool do you think you can play me for, coming in here talking about ‘unfair’ regulations and ‘unforeseen consequences’? I don’t want to hear another word of that. Good day, Ms. Monteiro.”

Now what? Does the insurance company lawyer press the Commissioner on this point, making him angry and probably not getting anywhere? Her company does a lot of business in this state. A good relationship with the Commissioner is important. Should she let the matter rest, then, even though she is convinced that this regulation really is unfair, that its long-term effects are likely to be against the public interest, and that not even the experts foresaw this problem at the time of the original hearings?

What is going on in these cases?

Negotiators are people first

A basic fact about negotiation, easy to forget in corporate and international transactions, is that you are dealing not with abstract

representatives of the "other side," but with human beings. They have emotions, deeply held values, and different backgrounds and viewpoints; and they are unpredictable. So are you.

This human aspect of negotiation can be either helpful or disastrous. The process of working out an agreement may produce a psychological commitment to a mutually satisfactory outcome. A working relationship where trust, understanding, respect, and friendship are built up over time can make each new negotiation smoother and more efficient. And people's desire to feel good about themselves, and their concern for what others will think of them, can often make them more sensitive to another negotiator's interests.

On the other hand, people get angry, depressed, fearful, hostile, frustrated, and offended. They have egos that are easily threatened. They see the world from their own personal vantage point, and they frequently confuse their perceptions with reality. Routinely, they fail to interpret what you say in the way you intend and do not mean what you understand them to say. Misunderstanding can reinforce prejudice and lead to reactions that produce counterreactions in a vicious circle; rational exploration of possible solutions becomes impossible and a negotiation fails. The purpose of the game becomes scoring points, confirming negative impressions, and apportioning blame at the expense of the substantive interests of both parties.

Failing to deal with others sensitively as human beings prone to human reactions can be disastrous for a negotiation. 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?"

Every negotiator has two kinds of interests:

In the substance and In the relationship

Every negotiator wants to reach an agreement that satisfies his substantive interests. That is why one negotiates. Beyond that, a negotiator also has an interest in his relationship with the other

side. An antiques dealer wants both to make a profit on the sale and to turn the customer into a regular one. At a minimum, a negotiator wants to maintain a working relationship good enough to produce an acceptable agreement if one is possible given each side's interests. Usually, more is at stake. Most negotiations take place in the context of an ongoing relationship where it is important to carry on each negotiation in a way that will help rather than hinder future relations and future negotiations. In fact, with many long-term clients, business partners, family members, fellow professionals, government officials, or foreign nations, the ongoing relationship is far more important than the outcome of any particular negotiation.

The relationship tends to become entangled with the problem. A major consequence of the "people problem" in negotiation is that the parties' relationship tends to become entangled with their discussions of substance. On both the giving and receiving end, we are likely to treat people and problem as one. Within the family, a statement such as "The kitchen is a mess" or "Our bank account is low" may be intended simply to identify a problem, but it is likely to be heard as a personal attack. Anger over a situation may lead you to express anger toward some human being associated with it in your mind. Egos tend to become involved in substantive positions.

Another reason that substantive issues become entangled with psychological ones is that people draw from comments on substance unfounded inferences which they then treat as facts about that person's intentions and attitudes toward them. Unless we are careful, this process is almost automatic; we are seldom aware that other explanations may be equally valid. Thus in the union example, Jones figured that Campbell, the foreman, had it in for him, while Campbell thought he was complimenting Jones and doing him a favor by giving him responsible assignments.

Positional bargaining puts relationship and substance in conflict. Framing a negotiation as a contest of will over positions

aggravates the entangling process. I see your position as a statement of how you would like the negotiation to end; from my point of view it demonstrates how little you care about our relationship. If I take a firm position that you consider unreasonable, you assume that I also think of it as an extreme position; it is easy to conclude that I do not value our relationship—or you—very highly.

Positional bargaining deals with a negotiator's interests both in substance and in a good relationship by trading one off against the other. If what counts in the long run for your company is its relationship with the insurance commissioner, then you will probably let this matter drop. Or, if you care more about a favorable solution than being respected or liked by the other side, you can try to trade relationship for substance. "If you won't go along with me on this point, then so much for you. This will be the last time we meet." Yet giving in on a substantive point may buy no friendship; it may do nothing more than convince the other side that you can be taken for a ride.

Separate the relationship from the substance;

deal directly with the people problem

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. Base the relationship on accurate perceptions, clear communication, appropriate emotions, and a forward-looking, purposive outlook. Deal with people problems directly; don't try to solve them with substantive concessions.

To deal with psychological problems, use psychological techniques. Where perceptions are inaccurate, you can look for ways to educate. If emotions run high, you can find ways for each person involved to let off steam. Where misunderstanding exists, you can work to improve communication.

To find your way through the jungle of people problems, it is useful to think in terms of three basic categories: perception, emotion, and communication. The various people problems all fall into one of these three baskets.

In negotiating it is easy to forget that you must deal not only with their people problems, but also with your own. Your anger and frustration may obstruct an agreement beneficial to you. Your perceptions are likely to be one-sided, and you may not be listening or communicating adequately. The techniques which follow apply equally well to your people problems as to those of the other side.

Perception

Understanding the other side's thinking is not simply a useful activity that will help you solve your problem. Their thinking is the problem. Whether you are making a deal or settling a dispute, differences are defined by the difference between your thinking and theirs. When two people quarrel, they usually quarrel over an object—both may claim a watch—or over an event—each may contend that the other was at fault in causing an automobile accident. The same goes for nations. Morocco and Algeria quarrel over a section of the Western Sahara; India and Pakistan quarrel over each other's development of nuclear bombs. In such circumstances people tend to assume that what they need to know more about is the object or the event. They study the watch or they measure the skid marks at the scene of the accident. They study the Western Sahara or the detailed history of nuclear weapons development in India and Pakistan.

Ultimately, however, conflict lies not in objective reality, but in people's heads. Truth is simply one more argument—perhaps a good one, perhaps not—for dealing with the difference. The difference itself exists because it exists in their thinking. Fears, even if ill-founded, are real fears and need to be dealt with. Hopes, even if unrealistic, may cause a war. Facts, even if established, may do nothing to solve the problem. Both parties may agree that

one lost the watch and the other found it, but still disagree over who should get it. It may finally be established that the auto accident was caused by the blowout of a tire which had been driven 31,402 miles, but the parties may dispute who should pay for the damage. The detailed history and geography of the Western Sahara, no matter how carefully studied and documented, is not the stuff with which one puts to rest that kind of territorial dispute. No study of who developed what nuclear devices when will put to rest the conflict between India and Pakistan.

As useful as looking for objective reality can be, it is ultimately the reality as each side sees it that constitutes the problem in a negotiation and opens the way to a solution.

Put yourself in their shoes. How you see the world depends on where you sit. People tend to see what they want to see. Out of a mass of detailed information, they tend to pick out and focus on those facts that confirm their prior perceptions and to disregard or misinterpret those that call their perceptions into question. Each side in a negotiation may see only the merits of its case, and only the faults of the other side's.

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 not enough to know that they see things differently. If you want to influence them, 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. It is not enough to study them like beetles under a microscope; you need to know what it feels like to be a beetle. To accomplish this task you should be prepared to withhold judgment for a while as you "try on" their views. They may well believe that their views are "right" as strongly as you believe yours are. You may see on the table a glass half full of cool water. Your spouse may see a dirty, half-empty glass about to cause a ring on the mahogany finish.

Consider the contrasting perceptions of a tenant and a landlady negotiating the renewal of a lease:

Tenant's perceptions

The rent is already too high.

With other costs going up, I can't afford to pay more for housing.

The apartment needs painting.

I know people who pay less for a comparable apartment.

Young people like me can't afford to pay high rents.

The rent ought to be low because the neighborhood is rundown.

I am a desirable tenant with no dogs or cats.

I always pay the rent whenever she asks for it.

She is cold and distant; she never asks me how things are.

Landlady's perceptions

The rent has not been increased for a long time.

With other costs going up, I need more rental income.

He has given that apartment heavy wear and tear.

I know people who pay more for a comparable apartment.

Young people like him tend to make noise and to be hard on an apartment.

We landlords should raise rents in order to improve the quality of the neighborhood.

His hi-fi drives me crazy.

He never pays the rent until I ask for it.

I am a considerate person who never intrudes on a tenant's privacy.

Understanding their point of view is not the same as agreeing with it. 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.

Don't deduce their intentions from your fears. People tend to assume that whatever they fear, the other side intends to do. Consider this story from the *New York Times*: "They met in a bar, where he offered her a ride home. He took her down unfamiliar streets. He said it was a shortcut. He got her home so fast she caught the 10 o'clock news." Why is the ending so surprising? We made an assumption based on our fears.

It is all too easy to fall into the habit of putting the worst interpretation on what the other side says or does. A suspicious interpretation often follows naturally from one's existing perceptions. 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 or rejected.

Don't blame them for your problem. It is tempting to hold the other side responsible for your problem. "Your company is totally unreliable. Every time you service our rotary generator here at the factory, you do a lousy job and it breaks down again." Blaming is an easy mode to fall into, particularly when you feel that the other side is indeed responsible. But 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 they will strike back with an attack of their own. Assessing blame firmly entangles the people with the problem.

When you talk about the problem, separate the symptoms from the person with whom you are talking. "Our rotary generator that you service has broken down again. That is three times in the last month. The first time it was out of order for an entire week. This factory needs a functioning generator. I want your advice on how we can minimize our risk of generator breakdown. Should we change service companies, sue the manufacturer, or what?"

face, not only for himself and for the judicial system, but for the parties. Instead of just telling one party, "You win," and telling the other, "You lose," he explains how his decision is consistent with principle, law, and precedent. He wants to appear not as arbitrary, but as behaving in a proper fashion. A negotiator is no different.

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. Terms negotiated between a major city and its Hispanic community on municipal jobs were unacceptable to the mayor—until the agreement was withdrawn and the mayor was allowed to announce the same terms as his own decision, carrying out a campaign promise.

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

Emotion

In a negotiation, particularly in a bitter dispute, feelings may be more important than talk. The parties may be more ready for battle than for cooperatively working out a solution to a common problem. People often come to a negotiation realizing that the stakes are high and feeling threatened. Emotions on one side will generate emotions on the other. Fear may breed anger, and anger, fear. Emotions may quickly bring a negotiation to an impasse or an end.

First recognize and understand emotions, theirs and yours. Look at yourself during the negotiation. Are you feeling nervous? Is your stomach upset? Are you angry at the other side? Listen to them and get a sense of what their emotions are. You may find it useful to write down what you feel—perhaps fearful, worried,

angry—and then how you might like to feel—confident, relaxed. Do the same for them.

In dealing with negotiators who represent their organizations, it is easy to treat them as mere mouthpieces without emotions. It is important to remember that they too, like you, have personal feelings, fears, hopes, and dreams. Their careers may be at stake. There may be issues on which they are particularly sensitive and others on which they are particularly proud. Nor are the problems of emotion limited to the negotiators. Constituents have emotions too. A constituent may have an even more simplistic and adversarial view of the situation.

Ask yourself what is producing the emotions. Why are you angry? Why are they angry? Are they responding to past grievances and looking for revenge? Are emotions spilling over from one issue to another? Are personal problems at home interfering with business? In the Middle East negotiation, Israelis and Palestinians alike feel a threat to their existence as peoples and have developed powerful emotions that now permeate even the most concrete practical issue, like distribution of water in the West Bank, so that it becomes almost impossible to discuss and resolve. Because in the larger picture both peoples feel that their own survival is at stake, they see every other issue in terms of survival.

Make emotions explicit and acknowledge them as legitimate. Talk with the people on the other side about their emotions. Talk about your own. It does not hurt to say, “You know, the people on our side feel we have been mistreated and are very upset. We’re afraid an agreement will not be kept even if one is reached. Rational or not, that is our concern. Personally, I think we may be wrong in fearing this, but that’s a feeling others have. Do the people on your side feel the same way?” Making your feelings or theirs an explicit focus of discussion will not only underscore the seriousness of the problem, it will also make the negotiations less reactive and more “pro-active.” Freed from the burden of unexpressed emotions, people will become more likely to work on the problem.

Allow the other side to let off steam. Often, one effective way to deal with people's anger, frustration, and other negative emotions is to help them release those feelings. People obtain psychological release through the simple process of recounting their grievances. If you come home wanting to tell your husband about everything that went wrong at the office, you will become even more frustrated if he says, "Don't bother telling me; I'm sure you had a hard day. Let's skip it." The same is true for negotiators. Letting off steam may make it easier to talk rationally later. Moreover, if a negotiator makes an angry speech and thereby shows his constituency that he is not being "soft," they may give him a freer hand in the negotiation. He can then rely on a reputation for toughness to protect him from criticism later if he eventually enters into an agreement.

Hence, instead of interrupting polemical speeches or walking out on the other party, you may decide to control yourself, sit there, and allow them to pour out their grievances at you. When constituents are listening, such occasions may release their frustration as well as the negotiator's. 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. In this way, you offer little support to the inflammatory substance, give the speaker every encouragement to speak himself out, and leave little or no residue to fester.

Don't react to emotional outbursts. Releasing emotions can prove risky if it leads to an emotional reaction. If not controlled, it can result in a violent quarrel. One unusual and effective technique to contain the impact of emotions was used in the 1950s by the Human Relations Committee, a labor-management group set up in the steel industry to handle emerging conflicts before they became serious problems. The members of the committee adopted the rule that only one person could get angry at a time. This made it legitimate for others not to respond stormily to an angry outburst. It also made letting off emotional steam easier by

making an outburst itself more legitimate: "That's OK. It's his turn." The rule has the further advantage of helping people control their emotions. Breaking the rule implies that you have lost self-control, so you lose some face.

Use symbolic gestures. Any lover knows that to end a quarrel the simple gesture of bringing a red rose goes a long way. Acts that would produce a constructive emotional impact on one side often involve little or no cost to the other. A note of sympathy, a statement of regret, a visit to a cemetery, delivering a small present for a grandchild, shaking hands or embracing, eating together—all may be priceless opportunities to improve a hostile emotional situation at small cost. On many occasions an apology can defuse emotions effectively, even when you do not acknowledge personal responsibility for the action or admit an intention to harm. An apology may be one of the least costly and most rewarding investments you can make.

Communication

Without communication there is no negotiation. Negotiation is a process of communicating back and forth for the purpose of reaching a joint decision. Communication is never an easy thing, even between people who have an enormous background of shared values and experience. Couples who have lived with each other for thirty years still have misunderstandings every day. It is not surprising, then, to find poor communication between people who do not know each other well and who may feel hostile and suspicious of one another. Whatever you say, you should expect that the other side will almost always hear something different.

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. Frequently each side has given up on the other and is no longer attempting any serious communication with it. Instead they talk merely to impress third parties or their own constituency. Rather than trying to dance with their nego-

tiating partner toward a mutually agreeable outcome, they try to trip him up. Rather than trying to talk their partner into a more constructive step, they try to talk the spectators into taking sides. Effective communication between the parties is all but impossible if each plays to the gallery.

Even if you are talking directly and clearly to them, they may not be hearing you. This constitutes the second problem in communication. Note how often people don't seem to pay enough attention to what you say. Probably equally often, you would be unable to repeat what they had said. In a negotiation, you may be so busy thinking about what you are going to say next, how you are going to respond to that last point or how you are going to frame your next argument, that you forget to listen to what the other side is saying now. Or you may be listening more attentively to your constituency than to the other side. Your constituents, after all, are the ones to whom you will have to account for the results of the negotiation. They are the ones you are trying to satisfy. It is not surprising that you should want to pay close attention to them. But if you are not hearing what the other side is saying, there is no communication.

The third communication problem is misunderstanding. What one says, the other may misinterpret. Even when negotiators are in the same room, communication from one to the other can seem like sending smoke signals in a high wind. Where the parties speak different languages the chance for misinterpretation is compounded. For example, in Persian, the word "compromise" apparently lacks the positive meaning it has in English of "a midway solution both sides can live with," but has only a negative meaning as in "our integrity was compromised." Similarly, the word "mediator" in Persian suggests "meddler," someone who is barging in uninvited. In early 1980 U.N. Secretary General Waldheim flew to Iran to seek the release of American hostages. His efforts were seriously set back when Iranian national radio and television broadcast in Persian a remark he reportedly made on his arrival in Tehran: "I have come as a *mediator* to work out a *compromise*."

Within an hour of the broadcast, his car was being stoned by angry Iranians.

What can be done about these three problems of communication?

Listen actively and acknowledge what is being said. The need for listening is obvious, yet it is difficult to listen well, especially under the stress of an ongoing negotiation. Listening enables you to understand their perceptions, feel their emotions, and hear what they are trying to say. Active listening improves not only what you hear, but also what they say. If you pay attention and interrupt occasionally to say, "Did I understand correctly that you are saying that . . . ?" the other side will realize that they are not just killing time, not just going through a routine. They will also feel the satisfaction of being heard and understood. It has been said that the cheapest concession you can make to the other side is to let them know they have been heard.

Standard techniques of good listening are to pay close attention to what is said, to ask the other party to spell out carefully and clearly exactly what they mean, and to request that ideas be repeated if there is any ambiguity or uncertainty. Make it your task while listening not to phrase a response, but to understand them as they see themselves. Take in their perceptions, their needs, and their constraints.

Many consider it a good tactic not to give the other side's case too much attention, and not to admit any legitimacy in their point of view. A good negotiator does just the reverse. Unless you acknowledge what they are saying and demonstrate that you understand them, they may believe you have not heard them. When you then try to explain a different point of view, they will suppose that you still have not grasped what they mean. They will say to themselves, "I told him my view, but now he's saying something different, so he must not have understood it." Then instead of listening to your point, they will be considering how to make their argument in a new way so that this time maybe you will fathom it. So show that you understand them. "Let me see whether I

follow what you are telling me. From your point of view, the situation looks like this. . . .”

As you repeat what you understood them to have said, phrase it *positively* from their point of view, making the strength of their case clear. You might say, “You have a strong case. Let me see if I can explain it. Here’s the way it strikes me. . . .” Understanding is not agreeing. One can at the same time understand perfectly and disagree completely with what the other side is saying. But unless you can convince them that you do grasp how they see it, you may be unable to explain your viewpoint to them. Once you have made their case for them, then come back with the problems you find in their proposal. If you can put their case better than they can, and then 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. Talk to the other side. It is easy to forget sometimes that a negotiation is not a debate. Nor is it a trial. You are not trying to persuade some third party. The person you are trying to persuade is seated at the table with you. If a negotiation is to be compared with a legal proceeding, the situation resembles that of two judges trying to reach agreement on how to decide a case. Try putting yourself in that role, treating your opposite number as a fellow judge with whom are you attempting to work out a joint opinion. In this context it is clearly unpersuasive to blame the other party for the problem, to engage in name-calling, or to raise your voice. On the contrary, it will help to recognize explicitly that they see the situation differently and to try to go forward as people with a joint problem.

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. In the negotiations over the city of Trieste in 1954, for example, little progress was made in the talks among Yugoslavia, Britain, and the United States until the three principal

negotiators abandoned their large delegations and started meeting alone and informally in a private house. A good case can be made for changing Woodrow Wilson's appealing slogan "Open covenants openly arrived at" to "Open covenants privately arrived at." No matter how many people are involved in a negotiation, important decisions are typically made when no more than two people are in the room.

Speak about yourself, not about them. In many negotiations, each side explains and condemns at great length the motivations and intentions of the other side. It is more persuasive, however, to describe a problem in terms of its impact on you than in terms of what they did or why: "I feel let down" instead of "You broke your word." "We feel discriminated against" rather than "You're a racist." If you make a statement about them that they believe is untrue, they will ignore you or get angry; they will not focus on your concern. But a statement about how you feel is difficult to challenge. You convey the same information without provoking a defensive reaction that will prevent them from taking it in.

Speak for a purpose. Sometimes the problem is not too little communication, but too much. When anger and misperception are high, some thoughts are best left unsaid. At other times, full disclosure of how flexible you are may make it harder to reach agreement rather than easier. If you let me know that you would be willing to sell a house for \$80,000, after I have said that I would be willing to pay as much as \$90,000, we may have more trouble striking a deal than if you had just kept quiet. The moral is: Before making a significant statement, know what you want to communicate or find out, and know what purpose this information will serve.

Prevention works best

The techniques just described for dealing with problems of perception, emotion, and communication usually work well. However, the best time for handling people problems is before they become people problems. This means building a personal and

organizational relationship with the other side that can cushion the people on each side against the knocks of negotiation. It also means structuring the negotiating game in ways that separate the substantive problem from the relationship and protect people's egos from getting involved in substantive discussions.

Build a working relationship. 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. Dealing with a classmate, a colleague, a friend, or even a friend of a friend is quite different from dealing with a stranger. The more quickly you can turn a stranger into someone you know, the easier a negotiation is likely to become. You have less difficulty understanding where they are coming from. You have a foundation of trust to build upon in a difficult negotiation. You have smooth, familiar communication routines. It is easier to defuse tension with a joke or an informal aside.

The time to develop such a relationship is before the negotiation begins. Get to know them and find out about their likes and dislikes. Find ways to meet them informally. Try arriving early to chat before the negotiation is scheduled to start, and linger after it ends. Benjamin Franklin's favorite technique was to ask an adversary if he could borrow a certain book. This would flatter the person and give him the comfortable feeling of knowing that Franklin owed him a favor.

Face the problem, not the people. If negotiators view themselves as adversaries in a personal face-to-face confrontation, it is difficult to separate their relationship from the substantive problem. In that context, anything one negotiator says about the problem seems to be directed personally at the other and is received that way. Each side tends to become defensive and reactive and to ignore the other side's legitimate interests altogether.

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.

3 Focus on Interests, Not Positions

Consider the story of two men quarreling in a library. One wants the window open and the other wants it closed. They bicker back and forth about how much to leave it open: a crack, halfway, three quarters of the way. No solution satisfies them both.

Enter the librarian. She asks one why he wants the window open: "To get some fresh air." She asks the other why he wants it closed: "To avoid the draft." After thinking a minute, she opens wide a window in the next room, bringing in fresh air without a draft.

For a wise solution reconcile interests, not positions

This story is typical of many negotiations. Since the parties' problem appears to be a conflict of positions, and since their goal is to agree on a position, they naturally tend to think and talk about positions—and in the process often reach an impasse.

The librarian could not have invented the solution she did if she had focused only on the two men's stated positions of wanting the window open or closed. Instead she looked to their underlying interests of fresh air and no draft. This difference between positions and interests is crucial.

Interests define the problem. The basic problem in a negotiation lies not in conflicting positions, but in the conflict between each side's needs, desires, concerns, and fears. The parties may say:

"I am trying to get him to stop that real estate development next door."

Or "We disagree. He wants \$100,000 for the house. I won't pay a penny more than \$95,000."

But on a more basic level the problem is:

"He needs the cash; I want peace and quiet."

Or "He needs at least \$100,000 to settle with his ex-wife. I told my family that I wouldn't pay more than \$95,000 for a house."

Such desires and concerns are *interests*. Interests motivate people; they are the silent movers behind the hubbub of positions. Your position is something you have decided upon. Your interests are what caused you to so decide.

The Egyptian-Israeli peace treaty blocked out at Camp David in 1978 demonstrates the usefulness of looking behind positions. Israel had occupied the Egyptian Sinai Peninsula since the Six Day War of 1967. When Egypt and Israel sat down together in 1978 to negotiate a peace, their positions were incompatible. Israel insisted on keeping some of the Sinai. Egypt, on the other hand, insisted that every inch of the Sinai be returned to Egyptian sovereignty. Time and again, people drew maps showing possible boundary lines that would divide the Sinai between Egypt and Israel. Compromising in this way was wholly unacceptable to Egypt. To go back to the situation as it was in 1967 was equally unacceptable to Israel.

Looking to their interests instead of their positions made it possible to develop a solution. Israel's interest lay in security; they did not want Egyptian tanks poised on their border ready to roll across at any time. Egypt's interest lay in sovereignty; the Sinai had been part of Egypt since the time of the Pharaohs. After centuries of domination by Greeks, Romans, Turks, French, and British, Egypt had only recently regained full sovereignty and was not about to cede territory to another foreign conqueror.

At Camp David, President Sadat of Egypt and Prime Minister

Begin of Israel agreed to a plan that would return the Sinai to complete Egyptian sovereignty and, by demilitarizing large areas, would still assure Israeli security. The Egyptian flag would fly everywhere, but Egyptian tanks would be nowhere near Israel.

Reconciling interests rather than positions works for two reasons. First, for every interest there usually exist several possible positions that could satisfy it. All too often people simply adopt the most obvious position, as Israel did, for example, in announcing that they intended to keep part of the Sinai. 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. In the Sinai, demilitarization was one such alternative.

Reconciling interests rather than compromising between positions also works because behind opposed positions lie many more interests than conflicting ones.

Behind opposed positions lie shared and compatible interests, as well as conflicting ones. We tend to assume that because the other side's positions are opposed to ours, their interests must also be opposed. If we have an interest in defending ourselves, then they must want to attack us. If we have an interest in minimizing the rent, then their interest must be to maximize it. In many negotiations, however, a close examination of the underlying interests will reveal the existence of many more interests that are shared or compatible than ones that are opposed.

For example, look at the interests a tenant shares with a prospective landlord:

1. Both want stability. The landlord wants a stable tenant; the tenant wants a permanent address.
2. Both would like to see the apartment well maintained. The tenant is going to live there; the landlord wants to increase the value of the apartment as well as the reputation of the building.
3. Both are interested in a good relationship with each other.

The landlord wants a tenant who pays the rent regularly; the tenant wants a responsive landlord who will carry out the necessary repairs.

They may have interests that do not conflict but simply differ. For example:

1. The tenant may not want to deal with fresh paint, to which he is allergic. The landlord will not want to pay the costs of repainting all the other apartments.
2. The landlord would like the security of a down payment of the first month's rent, and he may want it by tomorrow. The tenant, knowing that this is a good apartment, may be indifferent on the question of paying tomorrow or later.

When weighed against these shared and divergent interests, the opposed interests in minimizing the rent and maximizing the return seem more manageable. The shared interests will likely result in a long lease, an agreement to share the cost of improving the apartment, and efforts by both parties to accommodate each other in the interest of a good relationship. The divergent interests may perhaps be reconciled by a down payment tomorrow and an agreement by the landlord to paint the apartment provided the tenant buys the paint. The precise amount of the rent is all that remains to be settled, and the market for rental apartments may define that fairly well.

Agreement is often made possible precisely because interests differ. You and a shoe-seller may both like money and shoes. Relatively, his interest in the fifty dollars exceeds his interest in the shoes. For you, the situation is reversed: you like the shoes better than the fifty dollars. Hence the deal. Shared interests and differing but complementary interests can both serve as the building blocks for a wise agreement.

How do you Identify Interests?

The benefit of looking behind positions for interests is clear. How to go about it is less clear. A position is likely to be concrete and explicit; the interests underlying it may well be unexpressed, intangible, and perhaps inconsistent. How do you go about understanding the interests involved in a negotiation, remembering that figuring out *their* interests will be at least as important as figuring out *yours*?

Ask "Why?" One basic technique is to put yourself in their shoes. Examine each position they take, and ask yourself "Why?" Why, for instance, does your landlord prefer to fix the rent—in a five-year lease—year by year? The answer you may come up with, to be protected against increasing costs, is probably one of his interests. You can also ask the landlord himself why he takes a particular position. 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. "What's your basic concern, Mr. Jones, in wanting the lease to run for no more than three years?"

Ask "Why not?" Think about their choice. One of the most useful ways to uncover interests is first to identify the basic decision that those on the other side probably see you asking them for, and then to ask yourself why they have not made that decision. What interests of theirs stand in the way? If you are trying to change their minds, the starting point is to figure out where their minds are now.

Consider, for example, the negotiations between the United States and Iran in 1980 over the release of the fifty-two U.S. diplomats and embassy personnel held hostage in Tehran by student militants. While there were a host of serious obstacles to a resolution of this dispute, the problem is illuminated simply by looking at the choice of a typical student leader. The demand of the United States was clear: "Release the hostages." During much of 1980 each student leader's choice must have looked something like that illustrated by the balance sheet below.

4 Invent Options for Mutual Gain

The case of Israel and Egypt negotiating over who should keep how much of the Sinai Peninsula illustrates both a major problem in negotiation and a key opportunity.

The problem is a common one. There seems to be no way to split the pie that leaves both parties satisfied. Often you are negotiating along a single dimension, such as the amount of territory, the price of a car, the length of a lease on an apartment, or the size of a commission on a sale. At other times you face what appears to be an either/or choice that is either markedly favorable to you or to the other side. In a divorce settlement, who gets the house? Who gets custody of the children? You may see the choice as one between winning and losing—and neither side will agree to lose. Even if you do win and get the car for \$12,000, the lease for five years, or the house and kids, you have a sinking feeling that they will not let you forget it. Whatever the situation, your choices seem limited.

The Sinai example also makes clear the opportunity. A creative option like a demilitarized Sinai can often make the difference between deadlock and agreement. One lawyer we know attributes his success directly to his ability to invent solutions advantageous to both his client and the other side. He expands the pie before dividing it. Skill at inventing options is one of the most useful assets a negotiator can have.

Yet all too often negotiators end up like the proverbial children

who quarreled over an orange. After they finally agreed to divide the orange in half, the first child took one half, ate the fruit, and threw away the peel, while the other threw away the fruit and used the peel from the second half in baking a cake. All too often negotiators "leave money on the table"—they fail to reach agreement when they might have, or the agreement they do reach could have been better for each side. Too many negotiations end up with half an orange for each side instead of the whole fruit for one and the whole peel for the other. Why?

DIAGNOSIS

As valuable as it is to have many options, people involved in a negotiation rarely sense a need for them. In a dispute, people usually believe that they know the right answer—their view should prevail. In a contract negotiation they are equally likely to believe that their offer is reasonable and should be adopted, perhaps with some adjustment in the price. All available answers appear to lie along a straight line between their position and yours. Often the only creative thinking shown is to suggest splitting the difference.

In most negotiations there are four major obstacles that inhibit the inventing of an abundance of options: (1) premature judgment; (2) searching for the single answer; (3) the assumption of a fixed pie; and (4) thinking that "solving their problem is their problem." In order to overcome these constraints, you need to understand them.

Premature Judgment

Inventing options does not come naturally. *Not* inventing is the normal state of affairs, even when you are outside a stressful negotiation. If you were asked to name the one person in the world most deserving of the Nobel Peace Prize, any answer you might start to propose would immediately encounter your reservations and doubts. How could you be sure that that person was

the *most* deserving? Your mind might well go blank, or you might throw out a few answers that would reflect conventional thinking: "Well, maybe the Pope, or the President."

Nothing is so harmful to inventing as a critical sense waiting to pounce on the drawbacks of any new idea. Judgment hinders imagination.

Under the pressure of a forthcoming negotiation, your critical sense is likely to be sharper. Practical negotiation appears to call for practical thinking, not wild ideas.

Your creativity may be even more stifled by the presence of those on the other side. Suppose you are negotiating with your boss over your salary for the coming year. You have asked for a \$4,000 raise; your boss has offered you \$1,500, a figure that you have indicated is unsatisfactory. In a tense situation like this you are not likely to start inventing imaginative solutions. You may fear that if you suggest some bright half-baked idea like taking half the increase in a raise and half in additional benefits, you might look foolish. Your boss might say, "Be serious. You know better than that. It would upset company policy. I am surprised that you even suggested it." If on the spur of the moment you invent a possible option of spreading out the raise over time, he may take it as an offer: "I'm prepared to start negotiating on that basis." Since he may take whatever you say as a commitment, you will think twice before saying anything.

You may also fear that by inventing options you will disclose some piece of information that will jeopardize your bargaining position. If you should suggest, for example, that the company help finance the house you are about to buy, your boss may conclude that you intend to stay and that you will in the end accept any raise in salary he is prepared to offer.

Searching for the single answer

In most people's minds, inventing simply is not part of the negotiating process. People see their job as narrowing the gap be-

tween positions, not broadening the options available. They tend to think, "We're having a hard enough time agreeing as it is. The last thing we need is a bunch of different ideas." Since the end product of negotiation is a single decision, they fear that free-floating discussion will only delay and confuse the process.

If the first impediment to creative thinking is premature criticism, the second is premature closure. 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.

The assumption of a fixed pie

A third explanation for why there may be so few good options on the table is that each side sees the situation as essentially either/or—either I get what is in dispute or you do. A negotiation often appears to be a "fixed-sum" game; \$100 more for you on the price of a car means \$100 less for me. Why bother to invent if all the options are obvious and I can satisfy you only at my own expense?

Thinking that "solving their problem is their problem"

A final obstacle to inventing realistic options lies in each side's concern with only its own immediate interests. For a negotiator to reach an agreement that meets his own self-interest he needs to develop a solution which also appeals to the self-interest of the other. Yet 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: "We've got enough problems of our own; they can look after theirs." There also frequently exists a psychological reluctance to accord any legitimacy to the views of the other side; it seems disloyal to think up ways to satisfy them. Shortsighted self-concern thus leads a negotiator to develop only partisan positions, partisan arguments, and one-sided solutions.

PRESCRIPTION

To invent creative options, then, you will need (1) to separate the act of inventing options from the act of judging them; (2) to broaden the options on the table rather than look for a single answer; (3) to search for mutual gains; and (4) to invent ways of making their decisions easy. Each of these steps is discussed below.

Separate inventing from deciding

Since judgment hinders imagination, separate the creative act from the critical one; separate the process of thinking up possible decisions from the process of selecting among them. Invent first, decide later.

As a negotiator, you will of necessity do much inventing by yourself. It is not easy. By definition, inventing new ideas requires you to think about things that are not already in your mind. You should therefore consider the desirability of arranging an inventing or brainstorming session with a few colleagues or friends. Such a session can effectively separate inventing from deciding.

A brainstorming session is designed to produce as many ideas as possible to solve the problem at hand. The key ground rule is to postpone all criticism and evaluation of ideas. The group simply invents ideas without pausing to consider whether they are good or bad, realistic or unrealistic. With those inhibitions removed, one idea should stimulate another, like firecrackers setting off one another.

In a brainstorming session, people need not fear looking foolish since wild ideas are explicitly encouraged. And in the absence of the other side, negotiators need not worry about disclosing confidential information or having an idea taken as a serious commitment.

There is no right way to run a brainstorming session. Rather, you should tailor it to your needs and resources. In doing so, you may find it useful to consider the following guidelines.

Before brainstorming:

1. *Define your purpose.* Think of what you would like to walk out of the meeting with.
2. *Choose a few participants.* The group should normally be large enough to provide a stimulating interchange, yet small enough to encourage both individual participation and free-wheeling inventing—usually between five and eight people.
3. *Change the environment.* Select a time and place distinguishing the session as much as possible from regular discussions. The more different a brainstorming session seems from a normal meeting, the easier it is for participants to suspend judgment.
4. *Design an informal atmosphere.* What does it take for you and others to relax? It may be talking over a drink, or meeting at a vacation lodge in some picturesque spot, or simply taking off your tie and jacket during the meeting and calling each other by your first names.
5. *Choose a facilitator.* Someone at the meeting needs to facilitate—to keep the meeting on track, to make sure everyone gets a chance to speak, to enforce any ground rules, and to stimulate discussion by asking questions.

During brainstorming:

1. *Seat the participants side by side facing the problem.* The physical reinforces the psychological. Physically sitting side by side can reinforce the mental attitude of tackling a common problem together. 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 there.
2. *Clarify the ground rules, including the no-criticism rule.* If the participants do not all know each other, the meeting begins with introductions all around, followed by clarification of the ground rules. Outlaw negative criticism of any kind.

Joint inventing produces new ideas because each of us

invents only within the limits set by our working assumptions. If ideas are shot down unless they appeal to all participants, the implicit goal becomes to advance an idea that no one will shoot down. If, on the other hand, wild ideas are encouraged, even those that in fact lie well outside the realm of the possible, the group may generate from these ideas other options that *are* possible and that no one would previously have considered.

Other ground rules you may want to adopt are to make the entire session off the record and to refrain from attributing ideas to any participant.

3. *Brainstorm.* Once the purpose of the meeting is clear, let your imaginations go. Try to come up with a long list of ideas, approaching the question from every conceivable angle.

4. *Record the ideas in full view.* Recording ideas either on a blackboard or, better, on large sheets of newsprint gives the group a tangible sense of collective achievement; it reinforces the no-criticism rule; it reduces the tendency to repeat; and it helps stimulate other ideas.

After brainstorming:

1. *Star the most promising ideas.* After brainstorming, relax the no-criticism rule in order to winnow out the most promising ideas. You are still not at the stage of deciding; you are merely nominating ideas worth developing further. Mark those ideas that members of the group think are best.

2. *Invent improvements for promising ideas.* Take one promising idea and invent ways to make it better and more realistic, as well as ways to carry it out. The task at this stage is to make the idea as attractive as you can. Preface constructive criticism with: "What I like best about that idea is Might it be better if . . . ?"

3. *Set up a time to evaluate ideas and decide.* Before you break up, draw up a selective and improved list of ideas from the session and set up a time for deciding which of these ideas to advance in your negotiation and how.

Consider brainstorming with the other side. Although more difficult than brainstorming with your own side, brainstorming with people from the other side can also prove extremely valuable. It is more difficult because of the increased risk that you will say something that prejudices your 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, of creating a climate of joint problem-solving, and of educating each side about the concerns of the other.

To protect yourself when brainstorming with the other side, distinguish the brainstorming session explicitly from a negotiating session where people state official views and speak on the record. People are so accustomed to meeting for the purpose of reaching agreement that any other purpose needs to be clearly stated.

To reduce the risk of appearing committed to any given idea, you can make a habit of advancing at least two alternatives at the same time. You can also put on the table options with which you obviously disagree. "I could give you the house for nothing, or you could pay me a million dollars in cash for it, or . . ." Since you are plainly not proposing either of these ideas, the ones which follow are labeled as mere possibilities, not proposals.

To get the flavor of a joint brainstorming session, let us suppose the leaders of a local union are meeting with the management of a coal mine to brainstorm on ways to reduce unauthorized one- or two-day strikes. Ten people—five from each side—are present, sitting around a table facing a blackboard. A neutral facilitator asks the participants for their ideas, and writes them down on the blackboard.

Facilitator: OK, now let's see what ideas you have for dealing with this problem of unauthorized work stoppages. Let's try to get ten ideas on the blackboard in five minutes. OK, let's start. Tom?

Tom (Union): Foremen ought to be able to settle a union member's grievance on the spot.

Facilitator: Good, I've got it down. Jim, you've got your hand up.

Jim (Management): A union member ought to talk to his foreman about a problem before taking any action that——

Tom (Union): They do, but the foremen don't listen.

Facilitator: Tom, please, no criticizing yet. We agreed to postpone that until later, OK? How about you, Jerry? You look like you've got an idea.

Jerry (Union): When a strike issue comes up, the union members should be allowed to meet in the bathhouse immediately.

Roger (Management): Management could agree to let the bathhouse be used for union meetings and could assure the employees' privacy by shutting the doors and keeping the foremen out.

Carol (Management): How about adopting the rule that there will be no strike without giving the union leaders and management a chance to work it out on the spot?

Jerry (Union): How about speeding up the grievance procedure and having a meeting within twenty-four hours if the foreman and union member don't settle it between themselves?

Karen (Union): Yeah. And how about organizing some joint training for the union members and the foremen on how to handle their problems together?

Phil (Union): If a person does a good job, let him know it.

John (Management): Establish friendly relations between union people and management people.

Facilitator: That sounds promising, John, but could you be more specific?

John (Management): Well, how about organizing a union-management softball team?

Tom (Union): And a bowling team too.

Roger (Management): How about an annual picnic get-together for all the families?

And on it goes, as the participants brainstorm lots of ideas. Many of the ideas might never have come up except in such a brainstorming session, and some of them may prove effective in reducing unauthorized strikes. Time spent brainstorming together is surely among the best-spent time in negotiation.

But whether you brainstorm together or not, separating the act of developing options from the act of deciding on them is extremely useful in any negotiation. Discussing options differs radically from taking positions. Whereas one side's position will conflict with another's, options invite other options. The very language you use differs. It consists of questions, not assertions; it is open, not closed: "One option is What other options have you thought of?" "What if we agreed to this?" "How about doing it this way?" "How would this work?" "What would be wrong with that?" Invent before you decide.

Broaden your options

Even with the best of intentions, participants in a brainstorming session are likely to operate on the assumption that they are really looking for the *one* best answer, trying to find a needle in a haystack by picking up every blade of hay.

At this stage in a negotiation, however, you should not be looking for the right path. You are developing room within which to negotiate. Room can be made only by having a substantial number of markedly different ideas—ideas on which you and the other side can build later in the negotiation, and among which you can then jointly choose.

A vintner making a fine wine chooses his grapes from a number of varieties. A baseball team looking for star players will send talent scouts to scour the local leagues and college teams all over the nation. The same principle applies to negotiation. The key to wise decision-making, whether in wine-making, baseball, or negotiation, lies in selecting from a great number and variety of options.

If you were asked who should receive the Nobel Peace Prize this year, you would do well to answer "Well, let's think about it" and generate a list of about a hundred names from diplomacy, business, journalism, religion, law, agriculture, politics, academia, medicine, and other fields, making sure to dream up a lot of wild ideas. You would almost certainly end up with a better decision this way than if you tried to decide right from the start.

A brainstorming session frees people to think creatively. Once freed, they need ways to think about their problems and to generate constructive solutions.

Multiply options by shuttling between the specific and the general: The Circle Chart. The task of inventing options involves four types of thinking. One is thinking about a particular problem—the factual situation you dislike, for example, a smelly, polluted river that runs by your land. The second type of thinking is descriptive analysis—you diagnose an existing situation in general terms. You sort problems into categories and tentatively suggest causes. The river water may have a high content of various chemicals, or too little oxygen. You may suspect various upstream industrial plants. The third type of thinking, again in general terms, is to consider what ought, perhaps, to be done. Given the diagnoses you have made, you look for prescriptions that theory may suggest, such as reducing chemical effluent, reducing diversions of water, or bringing fresh water from some other river. The fourth and final type of thinking is to come up with some specific and feasible suggestions for action. Who might do what tomorrow to put one of these general approaches into practice? For instance, the state

environmental agency might order an upstream industry to limit the quantity of chemical discharge.

The Circle Chart on the next page illustrates these four types of thinking and suggests them as steps to be taken in sequence. If all goes well, the specific action invented in this way will, if adopted, deal with your original problem.

The Circle Chart provides an easy way of using one good idea to generate others. With one useful action idea before you, you (or a group of you who are brainstorming) can go back and try to identify the general approach of which the action idea is merely one application. You can then think up other action ideas that would apply the same general approach to the real world. Similarly, you can go back one step further and ask, "If this theoretical approach appears useful, what is the diagnosis behind it?" Having articulated a diagnosis, you can generate other approaches for dealing with a problem analyzed in that way, and then look for actions putting these new approaches into practice. One good option on the table thus opens the door to asking about the theory that makes this option good and then using that theory to invent more options.

An example may illustrate the process. In dealing with the conflict over Northern Ireland, one idea might be to have Catholic and Protestant teachers prepare a common workbook on the history of Northern Ireland for use in the primary grades of both school systems. The book would present Northern Irish history as seen from different points of view and give the children exercises that involve role-playing and putting themselves in other people's shoes. To generate more ideas, you might start with this action suggestion and then search out the theoretical approach that underlies it. You might find such general propositions as:

"There should be some common educational content in the two school systems."

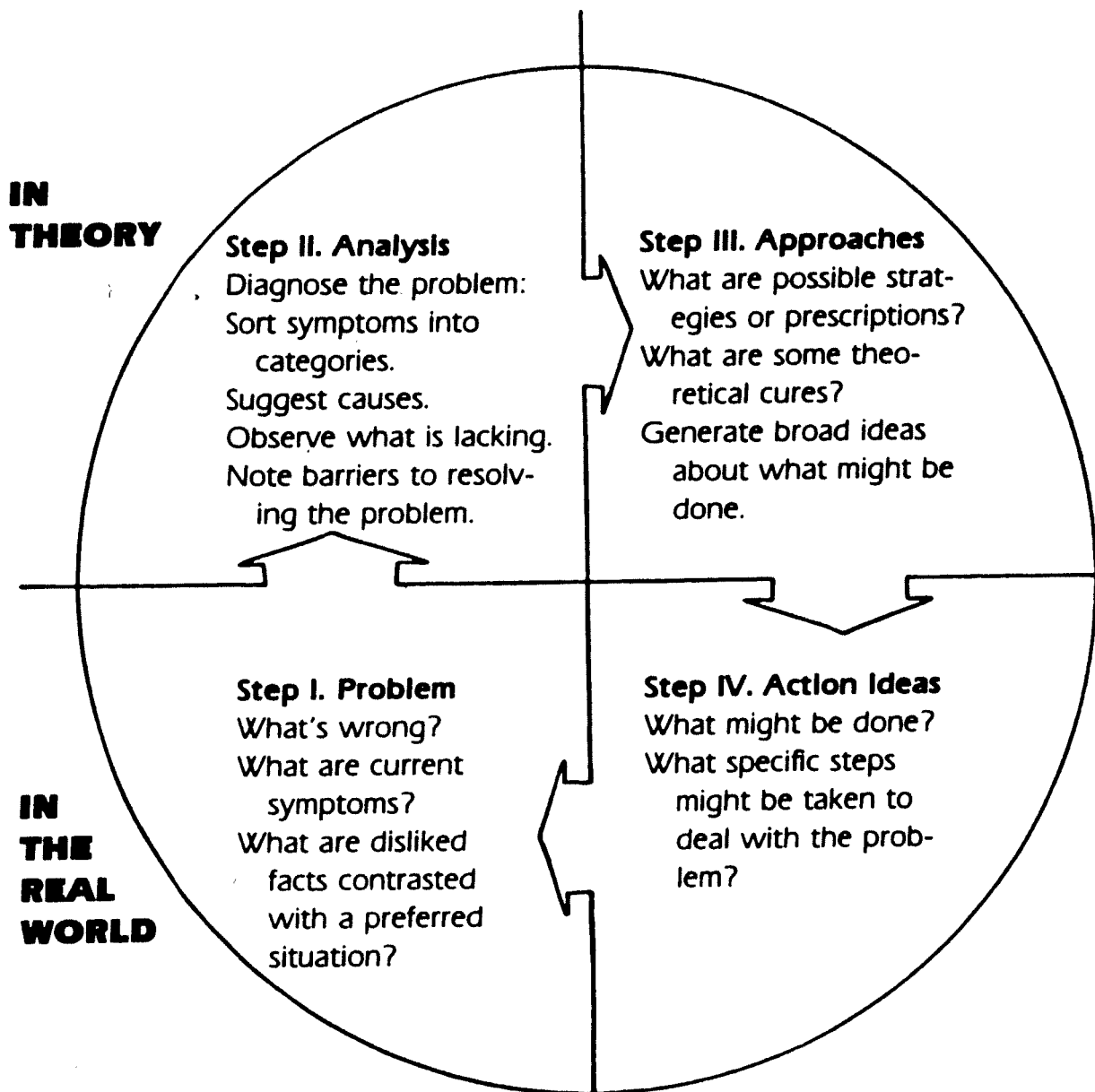
"Catholics and Protestants should work together on small, manageable projects."

CIRCLE CHART

The Four Basic Steps in Inventing Options

WHAT IS WRONG

WHAT MIGHT BE DONE



“Understanding should be promoted in young children before it is too late.”

“History should be taught in ways that illuminate partisan perceptions.”

Working with such theory you may be able to invent addi-

tional action suggestions, such as a joint Catholic and Protestant film project that presents the history of Northern Ireland as seen through different eyes. Other action ideas might be teacher exchange programs or some common classes for primary-age children in the two systems.

Look through the eyes of different experts. Another way to generate multiple options is to examine your problem from the perspective of different professions and disciplines.

In thinking up possible solutions to a dispute over custody of a child, for example, look at the problem as it might be seen by an educator, a banker, a psychiatrist, a civil rights lawyer, a minister, a nutritionist, a doctor, a feminist, a football coach, or one with some other special point of view. If you are negotiating a business contract, invent options that might occur to a banker, an inventor, a labor leader, a speculator in real estate, a stockbroker, an economist, a tax expert, or a socialist.

You can also combine the use of the Circle Chart with this idea of looking at a problem through the eyes of different experts. Consider in turn how each expert would diagnose the situation, what kinds of approaches each might suggest, and what practical suggestions would follow from those approaches.

Invent agreements of different strengths. You can multiply the number of possible agreements on the table by thinking of “weaker” versions you might want to have on hand in case a sought-for agreement proves beyond reach. If you cannot agree on substance, perhaps you can agree on procedure. If a shoe factory cannot agree with a wholesaler on who should pay for a shipment of damaged shoes, perhaps they can agree to submit the issue to an arbitrator. Similarly, where a permanent agreement is not possible, perhaps a provisional agreement is. At the very least, if you and the other side cannot reach first-order agreement, you can usually reach second-order agreement—that is, agree on where you disagree, so that you both know the issues in dispute, which are not always obvious. The pairs of adjectives below suggest potential agreements of differing “strengths”:

Stronger

Substantive
Permanent
Comprehensive
Final
Unconditional
Binding
First-order

Weaker

Procedural
Provisional
Partial
In principle
Contingent
Nonbinding
Second-order

Change the scope of a proposed agreement. Consider the possibility of varying not only the strength of the agreement but also its scope. You could, for instance, “fractionate” your problem into smaller and perhaps more manageable units. To a prospective editor for your book, you might suggest: “How about editing the first chapter for \$300, and we’ll see how it goes?” Agreements may be partial, involve fewer parties, cover only selected subject matters, apply only to a certain geographical area, or remain in effect for only a limited period of time.

It is also provocative to ask how the subject matter might be enlarged so as to “sweeten the pot” and make agreement more attractive. The dispute between India and Pakistan over the waters of the Indus River became more amenable to settlement when the World Bank entered the discussions; the parties were challenged to invent new irrigation projects, new storage dams, and other engineering works for the benefit of both nations, all to be funded with the assistance of the Bank.

Look for mutual gain

The third major block to creative problem-solving lies in the assumption of a fixed pie: the less for you, the more for me. Rarely if ever is this assumption true. First of all, both sides can always be worse off than they are now. Chess looks like a zero-sum game; if one loses, the other wins—until a dog trots by and knocks over the table, spills the beer, and leaves you both worse off than before.

Even apart from a shared interest in averting joint loss, there almost always exists the possibility of joint gain. This may take the form of developing a mutually advantageous relationship, or of satisfying the interests of each side with a creative solution.

Identify shared interests. In theory it is obvious that shared interests help produce agreement. By definition, inventing an idea which meets shared interests is good for you and good for them. In practice, however, the picture seems less clear. In the middle of a negotiation over price, shared interests may not appear obvious or relevant. How then can looking for shared interests help?

Let's take an example. Suppose you are the manager of an oil refinery. Call it Townsend Oil. The mayor of Pageville, the city where the refinery is located, has told you he wants to raise the taxes Townsend Oil pays to Pageville from one million dollars a year to two million. You have told him that you think one million a year is quite sufficient. The negotiation stands there: he wants more, you want to pay what you have been paying. In this negotiation, a typical one in many ways, where do shared interests come into play?

Let's take a closer look at what the mayor wants. He wants money—money undoubtedly to pay for city services, a new civic center, perhaps, and to relieve the ordinary taxpayers. But the city cannot obtain all the money it needs for now and for the future just from Townsend Oil. They will look for money from the petrochemical plant across the street, for example, and, for the future, from new businesses and from the expansion of existing businesses. The mayor, a businessman himself, would also like to encourage industrial expansion and attract new businesses that will provide new jobs and strengthen Pageville's economy.

What are your company's interests? Given the rapid changes in the technology of refining oil, and the antiquated condition of your refinery, you are presently considering a major refurbishment

and expansion of the plant. You are concerned that the city may later increase its assessment of the value of the expanded refinery, thus making taxes even higher. Consider also that you have been encouraging a plastics plant to locate itself nearby to make convenient use of your product. Naturally, you worry that the plastics plant will have second thoughts once they see the city increasing taxes.

The shared interests between the mayor and you now become more apparent. You both agree on the goals of fostering industrial expansion and encouraging new industries. If you did some inventing to meet these shared goals, you might come up with several ideas: a tax holiday of seven years for new industries, a joint publicity campaign with the Chamber of Commerce to attract new companies, a reduction in taxes for existing industries that choose to expand. Such ideas might save you money while filling the city's coffers. If on the other hand the negotiation soured the relationship between company and town, both would lose. You might cut back on your corporate contributions to city charities and school athletics. The city might become unreasonably tough on enforcing the building code and other ordinances. Your personal relationship with the city's political and business leaders might grow unpleasant. The relationship between the sides, often taken for granted and overlooked, frequently outweighs in importance the outcome of any particular issue.

As a negotiator, you will almost always want to look for solutions that will leave the other side satisfied as well. If the customer feels cheated in a purchase, the store owner has also failed; he may lose a customer and his reputation may suffer. An outcome in which the other side gets absolutely nothing is worse for you than one which leaves them mollified. In almost every case, your satisfaction depends to a degree on making the other side sufficiently content with an agreement to want to live up to it.

Three points about shared interests are worth remembering.

First, shared interests lie latent in every negotiation. They may not be immediately obvious. Ask yourself: Do we have a shared interest in preserving our relationship? What opportunities lie ahead for cooperation and mutual benefit? What costs would we bear if negotiations broke off? Are there common principles, like a fair price, that we both can respect?

Second, shared interests are opportunities, not godsend. To be of use, you need to make something out of them. It helps to make a shared interest explicit and to formulate it as a shared goal. In other words, make it concrete and future-oriented. As manager of Townsend Oil, for example, you could set a joint goal with the mayor of bringing five new industries into Pageville within three years. The tax holiday for new industries would then represent not a concession by the mayor to you but an action in pursuit of your shared goal.

Third, stressing your shared interests can make the negotiation smoother and more amicable. Passengers in a lifeboat afloat in the middle of the ocean with limited rations will subordinate their differences over food in pursuit of their shared interest in getting to shore.

Dovetail differing interests. Consider once again the two children quarreling over an orange. Each child wanted the orange, so they split it, failing to realize that one wanted only the fruit to eat and the other only the peel for baking. In this case as in many others, a satisfactory agreement is made possible because each side wants *different* things. This is genuinely startling if you think about it. People generally assume that differences between two parties create the problem. Yet differences can also lead to a solution.

Agreement is often based on disagreement. It is as absurd to think, for example, that you should always begin by reaching agreement on the facts as it is for a buyer of stock to try to convince the seller that the stock is likely to go up. If they did agree that the stock would go up, the seller would probably not sell. What makes a deal likely is that the buyer believes the price will go up

6 What If They Are More Powerful?

(Develop Your BATNA—Best Alternative To a Negotiated Agreement)

● Of what use is talking about interests, options, and standards if the other side has a stronger bargaining position? What do you do if the other side is richer or better connected, or if they have a larger staff or more powerful weapons?

No method can guarantee success if all the leverage lies on the other side. No book on gardening can teach you to grow lilies in a desert or cactus in a swamp. If you enter an antique store to buy a sterling silver George IV tea set worth thousands of dollars and all you have is one hundred-dollar bill, you should not expect skillful negotiation to overcome the difference. In any negotiation there exist realities that are hard to change. In response to power, the most any method of negotiation can do is to meet two objectives: *first*, to protect you against making an agreement you should reject and *second*, 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. Let's take each objective in turn.

Protecting yourself

When you are trying to catch an airplane your goal may seem tremendously important; looking back on it, you see you could have caught the next plane. Negotiation will often present you with a similar situation. You will worry, for instance, about failing to reach agreement on an important business deal in which you have invested a great deal of yourself. Under these conditions, a major danger is that you will be too accommodating to the views

of the other side—too quick to go along. The siren song of “Let’s all agree and put an end to this” becomes persuasive. You may end up with a deal you should have rejected.

The costs of using a bottom line. Negotiators commonly try to protect themselves against such an outcome by establishing in advance the worst acceptable outcome—their “bottom line.” If you are buying, a bottom line is the highest price you would pay. If you are selling, a bottom line is the lowest amount you would accept. You and your spouse might, for example, ask \$200,000 for your house and agree between yourselves to accept no offer below \$160,000.

Having a bottom line makes it easier to resist pressure and temptations of the moment. In the house example, it might be impossible for a buyer to pay more than \$144,000; everyone involved may know that you bought the house last year for only \$135,000. In this situation, where you have the power to produce agreement and the buyer does not, the brokers and anyone else in the room may turn to you. Your predetermined bottom line may save you from making a decision you would later regret.

If there is more than one person on your side, jointly adopting a bottom line helps ensure that no one will indicate to the other side that you might settle for less. It limits the authority of a lawyer, broker, or other agent. “Get the best price you can, but you are not authorized to sell for less than \$160,000,” you might say. If your side is a loose coalition of newspaper unions negotiating with an association of publishers, agreement on a bottom line reduces the risk that one union will be split off by offers from the other side.

But the protection afforded by adopting a bottom line involves high costs. It limits your ability to benefit from what you learn during negotiation. By definition, a bottom line is a position that is not to be changed. To that extent you have shut your ears, deciding in advance that nothing the other party says could cause you to raise or lower that bottom line.

A bottom line also inhibits imagination. It reduces the incen-

tive to invent a tailor-made solution which would reconcile differing interests in a way more advantageous for both you and them. Almost every negotiation involves more than one variable. Rather than simply selling your place for \$160,000, you might serve your interests better by settling for \$135,000 with a first refusal on resale, a delayed closing, the right to use the barn for storage for two years, and an option to buy back two acres of the pasture. If you insist on a bottom line, you are not likely to explore an imaginative solution like this. A bottom line—by its very nature rigid—is almost certain to be *too* rigid.

Moreover, a bottom line is likely to be set too high. Suppose you are sitting around the breakfast table with your family trying to decide the lowest price you should accept for your house. One family member suggests \$100,000. Another replies, "We should get at least \$140,000." A third chimes in, "\$140,000 for *our* house? That would be a steal. It's worth at least \$200,000." Who sitting at the table will object, knowing they will benefit from a higher price? Once decided upon, such a bottom line may be hard to change and may prevent your selling the house when you should. Under other circumstances a bottom line may be too low; rather than selling at such a figure, you would have been better off renting.

In short, while adopting a bottom line 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. An arbitrarily selected figure is no measure of what you should accept.

Is there an alternative to the bottom line? Is there a measure for agreements that will protect you against both accepting an agreement you should reject and rejecting an agreement you should accept? There is.

Know your BATNA. When a family is deciding on the minimum price for their house, the right question for them to ask is not what they "ought" to be able to get, but what they will do if by a certain time they have not sold the house. Will they keep it

on the market indefinitely? Will they rent it, tear it down, turn the land into a parking lot, let someone else live in it rent-free on condition they paint it, or what? Which of those alternatives is most attractive, all things considered? And how does that alternative compare with the best offer received for the house? It may be that one of those alternatives is more attractive than selling the house for \$160,000. On the other hand, selling the house for as little as \$124,000 may be better than holding on to it indefinitely. It is most unlikely that any arbitrarily selected bottom line truly reflects the family's interests.

The reason you negotiate is to produce something better than the results you can obtain without negotiating. What are those results? What is that alternative? What is your BATNA—your Best Alternative To a Negotiated Agreement? *That* is the standard against which any proposed agreement should be measured. That is the only standard which can protect you both from accepting terms that are too unfavorable and from rejecting terms it would be in your interest to accept.

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 does not meet your bottom line, you can compare a proposal with your BATNA to see whether it better satisfies your interests.

The insecurity of an unknown BATNA. If you have not thought carefully about what you will do if you fail to reach an agreement, you are negotiating with your eyes closed. You may, for instance, be too optimistic and assume that you have many other choices: other houses for sale, other buyers for your secondhand car, other plumbers, other jobs available, other wholesalers, and so on. Even when your alternative is fixed, you may be taking too rosy a view of the consequences of not reaching agreement. You may not be appreciating the full agony of a lawsuit, a contested divorce, a strike, an arms race, or a war.

One frequent mistake is psychologically to see your alternatives in the aggregate. You may be telling yourself that if you do

not reach agreement on a salary for this job, you could always go to California, or go South, or go back to school, or write, or work on a farm, or live in Paris, or do something else. In your mind you are likely to find the sum of these alternatives more attractive than working for a specific salary in a particular job. The difficulty is that you cannot have the sum total of all those other alternatives; if you fail to reach agreement, you will have to choose just one.

In most circumstances, however, the greater danger is that you are *too* committed to reaching agreement. Not having developed any alternative to a negotiated solution, you are unduly pessimistic about what would happen if negotiations broke off.

As valuable as knowing your BATNA may be, you may hesitate to explore alternatives. You hope this buyer or the next will make you an attractive offer for the house. You may avoid facing the question of what you will do if no agreement is reached. You may think to yourself, "Let's negotiate first and see what happens. If things don't work out, then I'll figure out what to do." But having at least a tentative answer to the question is absolutely essential if you are to conduct your negotiations wisely. Whether you should or should not agree on something in a negotiation depends entirely upon the attractiveness to you of the best available alternative.

Formulate a trip wire. Although your BATNA is the true measure by which you should judge any proposed agreement, you may want another test as well. 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. Like a bottom line, a trip wire can limit the authority of an agent. "Don't sell for less than \$158,000, the price I paid plus interest, until you've talked to me."

A trip wire should provide you with some margin in reserve. If after reaching the standard reflected in your trip wire you decide

to call in a mediator, you have left him with something on your side to work with. You still have some room to move.

Making the most of your assets

Protecting yourself against a bad agreement is one thing. Making the most of the assets you have in order to produce a good agreement is another. How do you do this? Again the answer lies in your BATNA.

The better your BATNA, the greater your power. 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.

Consider a wealthy tourist who wants to buy a small brass pot for a modest price from a vendor at the Bombay railroad station. The vendor may be poor, but he is likely to know the market. If he does not sell the pot to this tourist, he can sell it to another. From his experience he can estimate when and for how much he could sell it to someone else. The tourist may be wealthy and "powerful," but in this negotiation he will be weak indeed unless he knows approximately how much it would cost and how difficult it would be to find a comparable pot elsewhere. He is almost certain either to miss his chance to buy such a pot or to pay too high a price. The tourist's wealth in no way strengthens his negotiating power. If apparent, it *weakens* his ability to buy the pot at a low price. In order to convert that wealth into negotiating power, the tourist would have to apply it to learn about the price at which he could buy an equally or more attractive brass pot somewhere else.

Think for a moment about how you would feel walking into a job interview with no other job offers—only some uncertain leads. Think how the talk about salary would go. Now contrast that with how you would feel walking in with two other job offers.

How would that salary negotiation proceed? The difference is power.

What is true for negotiations between individuals is equally true for negotiations between organizations. The relative negotiating power of a large industry and a small town trying to raise taxes on a factory is determined not by the relative size of their respective budgets, or their political clout, but by each side's best alternative. In one case, a small town negotiated a company with a factory just outside the town limits from a "goodwill" payment of \$300,000 a year to one of \$2,300,000 a year. How?

The town knew exactly what it would do if no agreement was reached: It would expand the town limits to include the factory and then tax the factory the full residential rate of some \$2,500,000 a year. The corporation had committed itself to keeping the factory; it had developed no alternative to reaching agreement. At first glance the corporation seemed to have a great deal of power. It provided most of the jobs in the town, which was suffering economically; a factory shutdown or relocation would devastate the town. And the taxes the corporation was already paying helped provide the salaries of the very town leaders who were demanding more. Yet all of these assets, because they were not converted into a good BATNA, proved of little use. Having an attractive BATNA, the small town had more ability to affect the outcome of the negotiation than did one of the world's largest corporations.

Develop your BATNA. Vigorous exploration 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 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.

The first operation is inventing. If, by the end of the month,

Company X does not make you a satisfactory job offer, what are some things you might do? Take a job with Company Y? Look in another city? Start a business on your own? What else? For a labor union, alternatives to a negotiated agreement would presumably include calling a strike, working without a contract, giving a sixty-day notice of a strike, asking for a mediator, and calling on union members to "work to rule."

The second stage is to improve the best of your ideas and turn the most promising into real alternatives. If you are thinking about working in Chicago, try to turn that idea into at least one job offer there. With a Chicago job offer in hand (or even having discovered that you are unable to produce one) you are much better prepared to assess the merits of a New York offer. While a labor union is still negotiating, it should convert the ideas of calling in a mediator and of striking into drafts of specific operational decisions ready for execution. The union might, for instance, take a vote of its membership to authorize a strike if a settlement is not achieved by the time the contract expires.

The final step in developing a BATNA is selecting the best among the alternatives. If you do not reach agreement in the negotiations, which of your realistic alternatives do you now plan to pursue?

Having gone through this effort, you now have a BATNA. Judge every offer against it. The better your BATNA, the greater your ability to improve the terms of any negotiated agreement. Knowing what you are going to do if the negotiation does not lead to agreement will give you additional confidence in the negotiating process. It is easier to break off negotiations if you know where you're going. The greater your willingness to break off negotiations, the more forcefully you can present your interests and the basis on which you believe an agreement should be reached.

The desirability of disclosing your BATNA to the other side depends upon your assessment of the other side's thinking. If your BATNA is extremely attractive—if you have another customer

waiting in the next room—it is in your interest to let the other side know. If they think you lack a good alternative when in fact you have one, then you should almost certainly let them know. However, if your best alternative to a negotiated agreement is worse for you than they think, disclosing it will weaken rather than strengthen your hand.

Consider the other side's BATNA. You should also think about the alternatives to a negotiated agreement available to the other side. They may be unduly optimistic about what they can do if no agreement is reached. Perhaps they have a vague notion that they have a great many alternatives and are under the influence of their cumulative total.

The more you can learn of their alternatives, the better prepared you are for 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.

Their BATNA may be better for them than any fair solution you can imagine. Suppose you are a community group concerned about the potential noxious gases to be emitted by a power plant now under construction. The power company's BATNA is either to ignore your protests altogether or to keep you talking while they finish building the plant. To get them to take your concerns seriously, you may have to file suit seeking to have their construction permit revoked. In other words, if their BATNA is so good they don't see any need to negotiate on the merits, consider what you can do to change it.

If both sides have attractive BATNAs, the best outcome of the negotiation—for both parties—may well be not to reach agreement. In such cases a successful negotiation is one in which you and they amicably and efficiently discover that the best way to advance your respective interests is for each of you to look elsewhere and not to try further to reach agreement.

When the other side is powerful

If the other side has big guns, you do not want to turn a negotiation into a gunfight. The stronger they appear in terms of physical or economic power, the more you benefit by negotiating on the merits. To the extent that they have muscle and you have principle, the larger a role you can establish for principle the better off you are.

Having a good BATNA can help you negotiate on the merits. You can convert such resources as you have into effective negotiating power by developing and improving your BATNA. Apply knowledge, time, money, people, connections, and wits into devising the best solution for you independent of the other side's assent. The more easily and happily you can walk away from a negotiation, the greater your capacity to affect its outcome.

Developing your BATNA thus not only enables you to determine what is a minimally acceptable agreement, it will probably raise that minimum. Developing your BATNA is perhaps the most effective course of action you can take in dealing with a seemingly more powerful negotiator.