

Getting to Yes: Negotiating Agreement Without Giving In

by Genevieve Prevost

Special points of interest:

- Avoid positions
- Take people out of the equation
- Create options that everyone can agree to.
- Look at all the solutions
- Brainstorm—both sides get to criticize
- Look for common interests

INSIDE THIS ISSUE:

Authors	2
No Place for Positions	3
The Method	3
Interests, perceptions and..	4
Options for Gain	5
Objective Criteria	6
BATNA-	7
Negotiation Jujitsu	8
Dirty Tricks-	9
Questions	10

Who doesn't want to get the best possible deal?

Everyday we make some type of negotiation, whether it is in work or our personal life. How we choose to tackle the process typically determines how we feel about the agreement. Was it a good agreement? Did the agreement between people get nasty or was it super easy? How were the rules for the negotiations established? Was there some form of mutual understanding about the problem? Did you have similar interests and needs?

The book *Getting to Yes: Negotiation Agreements Without Giving In* focuses on the importance of looking at what happens during negotiations and methods to securing the best possible deal with the least amount of effort. The method that is used in this book and by its authors Roger Fisher, William Ury along with Bruce Patton (for second edition) is called Principled Negotiation by the Harvard Negotiation Project.

This negotiation method is neither a form of hard or soft negotiation. Hard negotiation requires the negotiator to

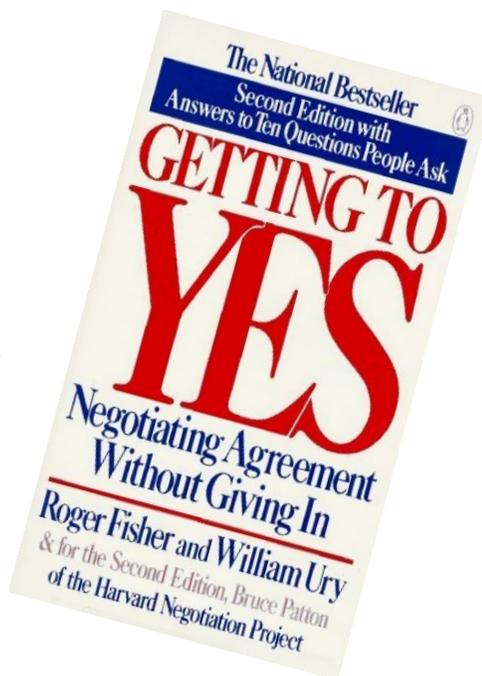
takes issues found in both soft and hard negotiations and provides examples of how to use principled negotiation to get the best possible agreement for both sides. This summary will provide some highlights along with some examples on how this form of negotiation can benefit you when you need to create an agreement for a group or simply for a personal issue.

When the time comes time for you to use what you have read, be sure to understand that you will not be able to be an expert the very first time you try. Just like reading the experiences of legendary hockey player Gordie Howe doesn't make you a

take a stand and this often creates hard feelings between sides and may destroy relationships. Soft negotiation attempts to avoid conflict and give in.

Principled negotiation focuses on being hard on merits and soft on people. This book

NHL hockey player, the lecture of this book, without practice, does not make you a well versed negotiator. Remember that all these skills take practice and practice is what you will need so you will never fail and become a victim of tricky tactics or psychological warfare.



Roger Fisher— Lead Author

Roger Fisher, a Lawyer and lead author for this book was raised in Illinois. He served in the Air Force in WWII. He teaches



negotiation at Harvard Law School and began the Har-

vard Negotiation Project with good friend William Ury. They first wrote and published this book in 1981 and it has been altered to include additional questions about the method principled negotiation by Bruce Patton in 1991.

Mr. Fisher has worked in many different formats including working as a consultant for Conflict Management and the U.S. Department of Defense. Roger has been a director of the Harvard Negotiation Project since its inception. He died in

August of 2012 as a Samuel Williston Professor of Law emeritus at Harvard Law. Roger was a leading expert on conflict resolution and both taught it and practiced his theories in personal issues and international ones. He consulted on many different negotiations and wrote numerous books on the topic.

He worked with his co-authors since 1977. He taught well into his nineties and loved the process of making practice of negotiating better and easier.

“*Getting to YES* has an unrivaled place in the literature of dispute resolution. No other book in the field comes close to its impact on the way practitioners, teachers, researchers and the public approach negotiations.”

National Institute for Dispute Resolution *Forum*

William Ury - Author

William Ury –coauthor to R. Fisher and cofounder of the Harvard Negotiations Project. William has taught negotiations at Harvard Business school. He received his bachelor degree from Yale University and a doctorate in Anthropology from Harvard.

While being a colleague of

Roger Fisher the pair along with some students created the Harvard Negotiation Project of which he served as a director and is now a *Distinguished Fellow*. William continues to work as an author, academic, and negotiation expert.



Bruce Patton— Second Edition

Bruce Patton, Lawyer and deputy director of the Harvard Negotiation Project assisted in the second edition of *Getting to Yes*. He hold undergraduate and graduate degrees from Harvard. He is associated with the Conflict Management Organization which he cofounded in 1984. He has worked as a negotiator in many different capacities and he teaches his

methods at Harvard Law.



This team has worked together since 1977 and has since published 3 editions of *Getting to Yes Negotiating Without Giving In...* (1981, 1991 and 2012)

No Place for Positions in Bargaining?

In Principled Negotiation, taking a position can create an incredibly difficult process and may create more problems in the long run. Positions in the negotiation process is not quite conducive to creating an atmosphere capable of compromise or positive communication. Without good communication, finding a mutually acceptable agreement is impossible, unless one side decides to give in to the demands. By winning your position, you may



limit the chances of future working relationships or future negotiations.

Positional bargaining is where you make a stand and you take nothing less than what you are asking for. This prevents any additional incentives or substantial gains that can be established in this agreement with the opposing side. In effect, it is preventing any additional changes that you were hoping to achieve. Negotiations need to have both a give and take between the vari-

ous sides. Creating a position in which you stand prevents you from seeing the problem from your opponents point of view and thus using what they see as a means to further your objectives.

The best course of action is to insist on using objective criteria, which sets a standard that can be relatable to all parties. Objective criteria can help to establish what your opponents interests, needs and desires are. You may even be able to see their bottom line, if you listen.

“Principled negotiations method of focusing on basic interests, mutually satisfying options, and fair standards typically results in a wise agreement”

The Method - Principled Negotiation

The principled negotiation method uses four basic points that may appear to some as plain common sense. It is what happens in negotiations that change what and how people see the problem, the discussion and the solution. Principled negotiators take people out of the problem, look for shared interests, mutual options and standardized criteria.

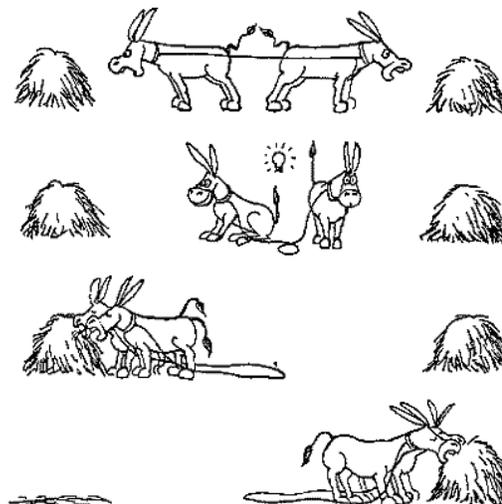
1. Taking people out of the problem- helps eliminate hard feelings. The goal is to create relationships: this will help prevent negative feelings because they see you as a good guy or gal.
2. Look for shared interests- listen to what they have to say, try to meet your and their interests by maintaining the relationship
3. Look for mutual options

- ideas that can be useful to both sides, create an atmosphere where brainstorming can be used and both can sides can provide input on solutions.

4. Base all ideas against standardized criteria-

look at finding a solution based on something outside the wills of the people involved, allowing principle but not pressure.

All of these step will be discussed later on in this summary publication.



Take People out of the Problem

The goal in principled negotiations is to remove the people from the problem by understanding that all the participants are attempting to achieve the same thing. Each participant wants to make an agree-

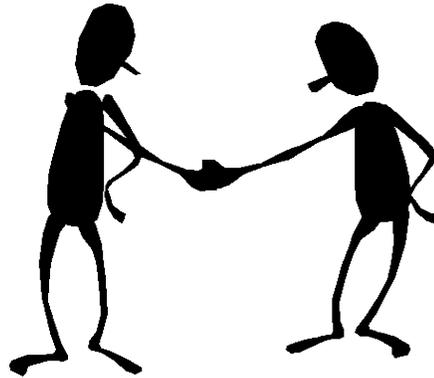
ment that they feel is the best possible deal they were able to reach.

It is important to prevent people from taking ownership of the problem and taking negotiations as a fight against each individual personally. Each participant easily can misinterpret discussions and become angry, depressed or hostile.

Ensure you are taking people out of the problem and thus you are putting the substance to the forefront without trading the rela-

tionship with the individual as collateral damage. When looking at people within the problem working towards the same goal an agreement—look towards interests based on perceptions, emotions and communication. All three of these cover most issues involving people problems.

When negotiating, it is important to realize that you should also look at how you see yourself through these three issues. Questions you can ask yourself are: how do you perceive the things around you, what are your emotions, How is your communications skills? Are you affecting the proceedings.



Interests- Perceptions

“Agreements are much easier, if both parties feel ownership of the ideas” (pg. 28)

For the purposes of explaining, let's think about the opposing sides perceptions and yours. It is valuable to be objective to what their and your perceptions are towards the problem. Point of view can be used to determine what are the opposing sides interests in solving this problem, making it easier to reach a decision if you are

able to discuss the symptoms rather than who was at fault. Try not to assume how they understand the situation as you may be using your own perceptions, fears and understandings. Sitting beside them rather than against them can give a feeling of being on the same side looking to solve the problem the same way. Take

the blame out, leaving it in, puts you in positional negotiations. Discuss using the idea that you want them involved.

“Do you have BUY IN?”



Interests - Communication and Emotions

Communication or active listening— is one of the most important parts of principled negotiation. Listen for emotion, thoughts and interests. Sometimes emotions get the better of us and we need to vent and allowing them or yourself the opportunity, will give you time to listen. An apology can go along way in healing hurt feelings and provide them an statement

that sums up what they have just said, provides them with the idea that you are listening to their concerns.

When communication fails it is due to three different problems:

1. parties speaking to a 3rd party to have them take a side.
2. Talking clearly but it may not be how they

hear it, (body language) they may not hear you or may be how you say it (intonation, between the lines).

3. Misunderstandings— different languages and interpretations and translations are leading causes of miscommunication

Solutions to Miscommunication

Sometimes there is miscommunication and we need to fix hard feelings, smooth ruffled feathers and continue our negotiations. There are four steps that help with communicating effectively: listen, speak to be heard, speak about you, not them, and speak with a purpose.

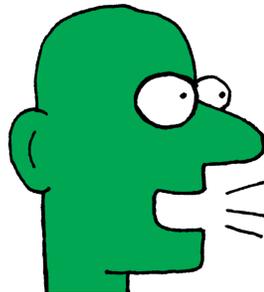
1. Listen actively– listen to understand. Look for their perceptions, feelings, needs and constraints.
2. Speak to be heard and understood. Recognize that they may have different position however be sure to let them know you are both looking at resolving the

same issue.

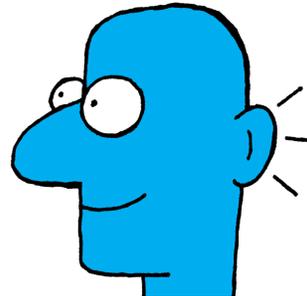
3. Speak about you– Use “I statements”– It is harder to argue how one feels over a “You did this” type of state-

or defensive.

4. Speak with a purpose, not just to hear yourself speak. Some of your ideas and thoughts shouldn't be said espe-



ment which can and often does produce an response that is angry



cially if they will produce a negative response.

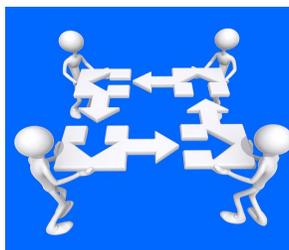
Prevention of Miscommunication

Prevention is the best method of avoiding miscommunication during negotiations. Keep a buffer between the problem and the relationship. You may need to renegotiate at a later date. Protect your feelings and ego, as well as theirs. By protecting the relationship, you are ensur-

ing that the other side sees that you value the relationship and have a vested interest in what the outcome and process is in negotiating it.

Face the problem, not the people, use body positioning rather than a face to face position, which means put yourself in a side

to side configuration. Now both of you are adversaries looking to solve the same problem by supporting each other.



“Negotiation is a process of communicating back and forth for the purpose of reaching a joint decision” (pg.32)

Can't See Past the Positions

Positions prevent you from seeing each parties interests and it is the interests that help establish the baseline for solving the problem. Conflicting positions just focus on one sides: needs, desires , concerns or fears.

Each side must be able to speak about their interests, which may include several different positions. By using communication you

can determine where there are shared and compatible interests.

Questioning can turn positions into discussions and provide you with more understanding about shared interests.

Example: “Our parent council wants the traffic that has been increasing because of the new super mall construction to slow down in front of the school”

The drivers are driving too fast and someone will get hurt.” “How do you purpose this understanding that this construction will bring services into your community?” “ We have children playing in this area after school and I am sure you wouldn't want to have a child hurt because of a construction truck” (shared interests) Remember to keep identifying interests to make ideas.

Questioning to find—Pros and Cons

Using questions to determine the interests of the each of the parties in negotiations can be very beneficial because it can establish the basis for a pros and cons list. With pros and cons it helps to determine consequences and begs for questions like how will this impact my interests? How will it impact my group?
Each group will have plenty

of interests the method of principled negotiation allows

for communication of the how these interests might conflict.

When in negotiations remember to never assume that the other side has shared interests it is only after you have listened and communicated your interests that you can be sure they are shared.

The Importance of LISTENING



Powerful Interests

“The wisest solutions, are those that produce the maximum gain for you at the minimum cost to the other side... produced by advocating your interests.” (pg.54)

The most powerful interests found in negotiations are: security (safety), economic wellbeing, sense of belonging, recognition and control over one’s life.

Each group or individual when negotiating

will have at least one of these as an interest that is important to them. The goal is to find an idea that can use their interests and your own to solve the problem rather than infringe on these interests.

Remember to be firm but open to working on the problem using their interests as you listen. Can’t expect them to take your interests into account if you don’t listen to theirs. Communicate effectively!!

Inventing Options to Avoid Obstacles

Creativity plays a huge role in how solutions are created as long as the 4 major obstacles of negotiating don’t occur: 1) premature judgement, 2) searching for the single answer, 3) assumption of a fixed pie, and 4) thinking that solving the problem is their problem.

Some creative ways to used to avoid these obstacles plan this out one way is to use the circle chart which was found on page 68 (seen at right). Or you may decide to use the bargaining table as a means to brainstorm some solutions, remembering of course to have a plan created before brainstorming and followed during and after the process.

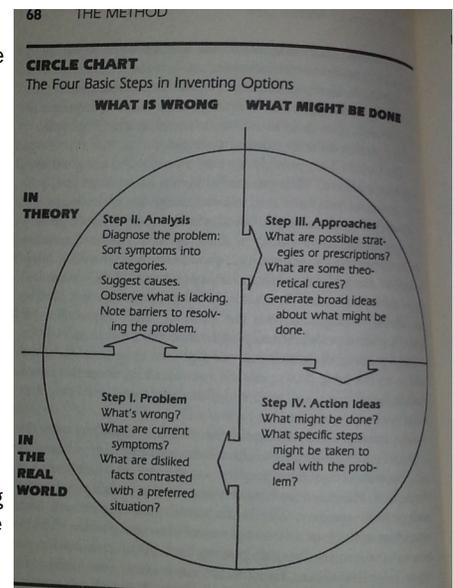
When brainstorming with the other side it can provide valuable information, create an atmosphere of joint problem solving. However ensure

that the meeting for brainstorming is specific and clearly stated as the purpose. Assuming the other side is aware of what is happening is not an example of communication.

After brainstorming has produced some valuable ideas, it is time for judgement based against principle. It allows the idea that the purpose can be reached or that there is an order agreement (where you agree to disagree)

The goal in this section was to look for mutual gains by identifying shared interests and by dovetailing differing interests, which are agreements based

on disagreements (example “Jack sprat could eat no fat, his wife could eat no lean” agree, but disagree).
More inventing ideas.....



Options—cont'd

Conflicting interests that can be solved using the dovetail method can be seen in the picture on the right taken from *Getting to Yes* on page 74.

When looking for

options, try to make the decision easy and painless as well as most advantageous for you. You are tasked with finding an answer rather than more of a problem. Invent interests

will be easy to make.

Base all ideas on objective criteria or principle rather than on pressure to solve the problem immediately. Look at each solution and their merits, not buckling to the pressure that one side brings to the table to complete the task. A good rule of thumb is to be open to reason and closed to threats. Develop the criteria and bring fairness, efficiency or scientific merit will produce a fair and wise result.

Any difference in interests? The following brief checklist suggests common variations in interest to look for:

One party cares more about:

- Form
- Economic considerations
- Internal considerations
- Symbolic considerations
- Immediate future
- Ad hoc results
- Hardware
- Progress
- Precedent
- Prestige, reputation
- Political points

The other party cares more about:

- Substance
- Political considerations
- External considerations
- Practical considerations
- More distant future
- The relationship
- Ideology
- Respect for tradition
- This case
- Results
- Group welfare

first, then decide, judge and criticize later. Look for shared interests, differing interests that can be dovetailed and a decision

Different beliefs? If I believe I'm right, and you believe you

BATNA- (Best Alternate to Negotiating Agreement

What if you don't get what you want? Or Need? Create a BATNA -the best alternative to negotiating agreement. What is your bottom line? Make the most of what you got and what you can do with it. Understand your options and by using these 3 steps you can feel confident in your BATNA: 1) list of options if no agree-

ment, 2) improve your ideas making them more practical, 3) pick the best ones.

A good BATNA will allow you to see the negotiations and improve them by providing you with confidence that your decision will be based

on a strong understanding. Try to consider their BATNA.

“ The more easily and happily walk away from a negotiation, the greater your capacity to change the outcome.” (pg. 106)

Sometimes they don't play fair...

Negotiating can be a dance and sometimes the other side just doesn't want to go to the dance floor. Rather, they take a position and stay strong. You have three options- decide what you can do, look at negotiation jujitsu or what a third party can do. Focus on the merits, principles of the solutions based on interests, options and criteria. Ask the “why” questions and “why nots”

Remember the method outlined in this book, it can be very useful in uncovering interests, options and criteria by asking and hearing what the other side is thinking and feeling. Practice what you have learned.



The idea of negotiation jujitsu and third party assistance will be discussed in the next section of this publication.

Negotiation Jujitsu —

So they aren't playing fair and they have begun to show some interesting colors... Now is not the time to give up, use the skills you have just learned about principled negotiation. Do not react to attacks, side step and deflect just like the martial art- jujitsu. Use their attacks as a means to understand what their interests are, then use them to invent mutual gains that can be secured using standards and principles that are objective.

Remember not to assume that their new position is actually their attempt at solving their problem; they may be wanting to change the solution to one that is more beneficial for them.

However, remember that you can change their position by providing them with possible



consequences to their new position based on your BATNA.

You shouldn't need to defend your interests, but you

can create dialogue that may improve their understanding, as well as yours, of the problem. Use the attacks to uncover shared interests and provide understanding about the problem.

Always use questioning and listening as means to ensure that you are seeking answers. "Statements generate resistance and questions generate answers", so if you seek answers to the problem you will be preventing resistance.

Questioning can produce valuable information, but you also must be willing to wait for a response, allow time for the other side

- Use statements like: -**
- Please correct me if I'm wrong...**
- Or, We appreciate what you've done for us...**
- Or, We would like to settle this on the basis of independent standards.**

3rd Party Assistance

If all your attempts at using the methods outlined in this book have not produced a satisfactory agreement, the only recourse is to ask for a third party to try and understand the stalemate. They will ask questions and make a list of interests. They will ask for criticisms of those interests.

The 3rd party might use principles, standards to find the best possible

solution. Third party typically formulate the solution and require one word response (Yes or No), inventing those options then deciding on one. This is called "One-Text procedure"

The 3rd party takes what they have heard and produces possibilities that should produce a yes or a no response. Use a form of Active listening to uncover the interests of each party.

Unwanted pressure

Negotiating for the best possible deal sometimes has its pitfalls. These include hardball types of tactics like providing pressure on the negotiations to make the deal. This may be an all or nothing type of solution or a bribe or threat. There may be a manipulation or an appeal to trust or simply a refusal to



bridge. The responses that can come produce a stalemate.

Remember when the statement comes " why, don't you

trust me?" it is important to state that trust is a separate matter—it speaks of relationship, not of the solution to the problem, this is pressure.

Dirty Tricks

Humans are humans and there are some who disregard fair and principled rules of negotiation. There are those who will play dirty tricks that can produce hurt feelings and broken relationships. These tricky tactics done at the 11th hour fail to follow the law of reciprocity and only one side can use it. Often the other side will feel cheated.

It is important to have rules around how negotiations will occur, if you are the side receiving recognize it, name it, question it. "I see you are attempting to use scare tactic to get me to allow a change of the solution which is much more favorable for your side. How

would it look if I was to ask for another change to the agreement when we are so close to finding a workable solution?"



Remember to focus on the problem not the

attack and continue to negotiate. They may misrepresent the facts, use psychological warfare, give an idea that they don't have the authority to secure the agreement,

Continue to negotiate using the principled method outlined. 1) Focus on the interests, not on the positions. 2) Remove the person from the problem. 3) Invent options for mutual gain 4) Use standardized criteria.

Tactics Used to Produce Positional Pressure

Some tactics that are often used as methods of producing positional pressure and the best practices strategies based on principled negotiation to return them to negotiating:

Refusal to negotiating- recognize, name and suggest options, insist on principles
 Extreme demands- use

principled justification
 Escalating demands- recognize, name it and insist on principles.
 Lock in tactics- use communication, return to principle, never yield to pressure.
 Hard-hearted partner- speak to the partner.
 Sometimes a calculated

delay or a take it or leave it solution is used to place pressure and produce a quick agreement to long drawn out negotiations.

"Easier to defend principles than tactics."

Some Questions That Were Answered in the 2nd Edition

Questions about principle negotiations?

- 1) Does positional bargaining make sense? With positional bargaining having only one step (Stick to your guns) it makes principle negotiation look difficult but it isn't fair.
- 2) What if I don't want to be fair? Principled negotiation is a suggestion to justify being fair

- and getting along with the others.
- 3) What if people are the problem? Build a relationship that is independent of the deal going through.
 - 4) When is it important to not negotiate? Does your BATNA make better sense... this is the time to use it.
 - 5) How do I try principled negotiating without

risking to much? The idea is to start small remember the goals and be prepared.



Genevieve Prevost B. Sc., B. Ed, Spec Ed.

Student in Masters Program
Ed Admin 826

E-mail: grpr@mail.usask.ca



The idea about principled negotiation is very similar to the game of Frisbee. On page 148 there is a short story with this analogy: In 1964, an American is playing Frisbee with his son in England. After about a 15 min a gentleman approaches and explains that this is the first time he has seen such a game and he is wondering who is winning. It isn't about winning it is about working on the process, practicing by providing a give and take response to each action. Just like principled negotiation the end result isn't winning or losing; it is about feeling good and having a satisfying feeling that you have done your part in making a difference.

More Questions Answered....

Should there be an adjustment to how I negotiate if there are difference in personality, gender, culture? Find out the differences, get advice that is reputable, pay attention to differences but avoid stereotyping and don't forget to use active listening.

Where should we meet? Who should make the first offer? Before you can make an offer you first have to be able to see if your solution

fits the bill for meeting their interests. Determine the options and see if it compares with the criteria that you have both agreed upon.

How do I get from inventing options to making a commitment? Always be prepared and have the end in sight Looking to the end will provide an idea of where you want to be and it allows you to work backwards to find

the solutions and pair them with your interests.

Can the way I negotiate make a difference if the other side is powerful? Yes, you can and should always try to make a difference. Even if you feel that they might not agree with you, because there are some times when you won't be able to provide a solution

Conclusion

Principled negotiation uses many logical steps to ensure that a fair agreement can be reached between two or

more parties. The plan ensure a that the process is committed to protecting the relationship. It also focuses on interests rather than

having parties take positions.

This is a win-win for everyone using this method.

Fisher, B., Ury, W. & Patton, B., (1991) Getting to Yes: Negotiating agreements without giving in. 2nd edition, New York: Penguin Books