

EXPANDED THEORY ON THE SEVEN ELEMENTS OF NEGOTIATION

INTERESTS: UNDERSTANDING THE REAL ISSUES BEHIND A POSITION

WORKING ASSUMPTION: Behind every position is a set of interests. Focusing on those interests enables creative problem-solving and opportunity for joint gain.

- **PROBLEM: PARTIES FOCUS ON POSITIONS RATHER THAN INTERESTS**
Negotiators often recognize one solution to their problem and advocate for that single solution (their position). They often build room for concessions into an initial offer in order to seem reasonable. The goal is to “win” by making fewer concessions, drawing more concessions from the other party, and coming to resolution closer to their initial offer. Even if this approach is “successful,” value is left on the table and, often, the relationship is harmed in the process.
- **CAUSE: WE ARE USED TO WIN-LOSE BARGAINING**
We often assume we are at odds with the party we are negotiating with. We therefore strive to “win” and, sometimes, for the other party to “lose.” Because most parties come to the table with opposing positions, negotiators assume a conflict of interests. With a competitive approach, parties often damage the relationship in the process of negotiating and then find it difficult to negotiate successfully at a later date on a separate issue.
- **APPROACH: USE INTEREST-BASED BARGAINING TO ACHIEVE WIN-WIN**
Carefully deciphering interests from positions will enable negotiators to recognize shared interests and opportunity for mutual gain. Recognizing interests breaks a position into “pieces” so that it may begin to become understandable. Parties can then think together about options (to be discussed in following pages) which may satisfy each parties’ interests without harming the other.
- **GUIDELINES**
 - Focus the conversations away from positions towards interests. You can do this explicitly.
 - Be willing to express your interests first, taking the lead and modeling how you would like the negotiation to proceed.
 - Work to understand their interests. Remember that the other party will only agree to a deal that meets their interests.

OPTIONS: DISCOVERING MULTIPLE WAYS TO SATISFY INTERESTS

WORKING ASSUMPTION: Options explore various ways of meeting all parties' interests. Generating multiple options can create possibilities for agreement where previously none existed. *Fully* exploring options can create the most gain for each party.

- **PROBLEM: VALUE IS OFTEN LEFT ON THE TABLE**
Negotiators often accept or reject a deal before fully exploring options. Exploring options creates opportunities to expand the terms so that a deal either becomes “yes-able” or perhaps even more attractive. Without option generation, parties lose the opportunity to explore solutions that could potentially persuade another party or even increase mutual gain at little cost to the other.
- **CAUSE: THE PROCESS SEEMS UNNECESSARY AND SOMETIMES SCARY**
When negotiators are at odds, generating options can seem like a pointless task. Similarly, when agreement has been reached, parties stop seeking additional options. In both circumstances, option generation can be an unsettling process: What if I put forth a bad idea? What if I cannot commit to an idea that I generated?
- **APPROACH: SEPARATE THE PROCESS**
When exploring options, it is essential to separate the process into two phases.
 - Phase I: Option Generation - Parties should brainstorm as many options as possible without evaluation. Options, even those that seem far-reaching, can lead to additional ideas that add value to an agreement. It is essential to hold evaluation for a later time in this process. If parties begin to evaluate during brainstorming, remind them that there will be time for evaluation later.
 - Phase II: Option Evaluation - Parties can now begin to discuss the merits of each idea, evaluating the pros and cons. They can begin to think of the options as an “a la carte” process and should work together to bring the aspects of each viable option into a well crafted agreement.
- **GUIDELINES**
 - Continue the option generation process even after it seems you have found grounds for agreement. Ending the process before fully exploring options leaves value on the table.
 - If necessary, consider selecting an alternate space for option generation. This can be a symbolic gesture that encourages parties to approach the negotiation with a different frame of mind.

ALTERNATIVES: IDENTIFYING OTHER COURSES OF ACTION IF NO AGREEMENT IS REACHED

WORKING ASSUMPTION: Having a best alternative (BATNA) in mind during negotiation helps parties stay focused on what they should or should not accept.

- **PROBLEM: PARTIES COULD HAVE DONE BETTER ELSEWHERE**
Sometimes this is a reality and sometimes it is not. However, in either case, parties often feel this way after a negotiation. Without exploring one's alternatives prior to negotiation, it can be hard to know what to insist upon during the negotiation, or even what to walk away from. Often, parties leave a negotiation only to find they could have gotten a better deal at the negotiation or that they could have done better elsewhere.
- **CAUSE: AGREEMENT IS REACHED WITHOUT KNOWING WHAT ELSE WAS AVAILABLE**
With nothing to compare the current proposal to, it is hard to know what to say yes to and what to walk away from. Negotiators can use tactics that make it impossible to come back to an offer currently on the table ("Last chance, take it or leave it."). Both options at that point, agreeing to or rejecting the deal, can be scary without knowing how well you could do elsewhere.
- **APPROACH: KNOW YOUR (AND THEIR) ALTERNATIVES**
Knowing one's alternatives before entering a negotiation provides a benchmark for the current negotiation. Negotiators should never agree to something that is worse than their BATNA. Knowing the other parties' alternatives allows a negotiator an advantage of potentially knowing the other party's "bottom line." Negotiators can sometimes discuss their alternatives with one another and commit to a process that is more beneficial than both BATNAs.
- **GUIDELINES**
 - Knowing your BATNA does not mean threatening the other party with it. Keeping a BATNA private can be very useful. Further, sharing one's BATNA without threatening can be a constructive way to change the dynamics of the negotiation.
 - Spend time enhancing your BATNA prior to the negotiation. A strong BATNA guarantees a strong outcome, regardless of whether an agreement is reached.
 - If threatened with another party's BATNA, ask how going to their alternative best suits their needs. They are negotiating with you, which means that you may have more to offer than their alternative. Explore with them whether going to their BATNA really is the best thing for them.

OBJECTIVE STANDARDS: USING THIRD PARTY SOURCES TO DETERMINE A FAIR AGREEMENT

WORKING ASSUMPTION: Referring to objective standards can create a sense of fairness, grounding a proposal in legitimate standards outside of negotiators' control.

- **PROBLEM: PARTIES MAKE PROPOSALS BASED ON SUBJECTIVITY WHICH OFTEN TURN THE NEGOTIATION INTO A CONTEST OF WILL**
Without consulting external standards for fairness, parties will not be able to determine the true value of the negotiated item. A negotiation then becomes a contest of will rather than a search for a fair agreement. Without objective criteria, parties are vulnerable to tactics such as pre-planned concessions.
- **CAUSE: PARTIES DO NOT APPEAL TO ONE ANOTHER'S SENSE OF FAIRNESS**
Negotiators often forget that the other party wants to be treated fairly in a negotiation and do not often place themselves "in the other's shoes." All parties will be concerned about fairness unless that concern is addressed. Negotiations often fail because parties neglect to review objective standards with one another, which would ground their proposal and the negotiation with a sense of fairness. No one wants to feel "taken."
- **APPROACH: UTILIZE OBJECTIVE CRITERIA TO PROTECT AND DEFEND YOURSELF**
It is important to address objective criteria explicitly in a negotiation. Parties can refer to those criteria to both push back on an unfair proposal and to defend their own. Using external standards can establish a range that can help parties reach agreement while strengthening the relationship based on fair conduct.
- **GUIDELINES**
 - Objective standards can include: laws, precedents, industry regulations, external evaluation, etc.
 - The use of objective standards themselves must often be negotiated. Parties may find that objective standards provide them with a range of possible agreement that they can then negotiate within.
 - In negotiation, submit only to principle not pressure. Inquire about a party's proposal in terms of the objective standards you are aware of.
 - It is important to be open to persuasion when using objective standards—there may be some that you have not considered that effect the value of the negotiated item.
 - Appeal to a sense of fairness in the other party. Ask how they would justify the decision they are asking you to make?

COMMITMENT: WHEN AND HOW TO AGREE ON THE SUBSTANCE OF A NEGOTIATION

WORKING ASSUMPTION: Parties can better ensure the quality of an agreement by postponing commitment on substantive issues until the end of the process.

- **PROBLEM: PARTIES ARE NOT ON THE SAME PAGE OR COMMIT TOO EARLY**
Committing to aspects of an agreement before fully exploring interests and options can lock up the process. When commitment is made too early, parties can become rigid and stuck to those commitments, especially if concessions were made to get them there. An offer is often seen as a commitment—this can deter parties from making offers or generating options.
- **CAUSE: LACK OF COMMUNICATION AND LIMITED FOCUS**
If parties have not explicitly expressed the degree to which they are seeking agreement at that time, frustration from miscommunication may develop as they realize they are not able to meet one another's expectations. If they commit too early, before fully exploring interests and options, value may be left on the table, or they may be unable to accept other reasonable options. In high profile negotiations, negotiators may be afraid to "lose face," changing an offer after it has been put "on the table."
- **APPROACH: DISCUSS DEGREE AND POSTPONE COMMITMENT**
Parties should explicitly discuss their expectations/abilities for commitment early in the process to prevent miscommunication. They should also attempt to discuss all aspects of the negotiation, especially interests and options in full, prior to making any commitments. Postponing commitment until the end of the process creates greater opportunity for mutual understanding and maximum gain.
- **GUIDELINES**
 - Be explicit about when you are making commitments and when you are not. Inquire about other party's intentions if you are unsure.
 - Prepare initial agreements as drafts that are open for criticism. When aspects of a draft are rejected, asking why will help parties understand each others interests better and will create an opportunity for further option generation.
 - Attempt to commit early to making substantive commitments until later in the process. Parties can remind one another of this commitment to process and can consider any statements made during the negotiation tentative.
 - Parties *can* commit early to process (for example, "I will commit to generating options based on our interests without evaluating them for the next hour.")

COMMUNICATION: LISTENING AND UNDERSTANDING ADDS VALUE TO A NEGOTIATION

WORKING ASSUMPTION: Parties who communicate well have the opportunity to clarify interests and intentions, ensuring their proposals satisfy the other party's interests.

- **PROBLEM: NEGOTIATORS FAIL TO FULLY UNDERSTAND ONE ANOTHER**
Negotiators often do not reach agreement because of simple misunderstandings. People are not used to listening to one another completely, especially in a situation where there is a perceived conflict. In a negotiation, we often assume we understand the other party's point of view and intentions when this is rarely the case.
- **CAUSE: NEGOTIATORS FOCUS MORE ON SPEAKING THAN LISTENING**
In general, negotiators often feel that if the other party is not agreeing with them it is because they did not explain their point clearly. In this case, neither party fully hears or understands the other. In conversation, people generally hear two voices - the other party's as well as their internal voice deciding what to say next.
- **APPROACH: UTILIZE ACTIVE LISTENING SKILLS AND A STANCE OF CURIOSITY**
Ask open ended questions and allow the other party to speak. When they are finished, take the opportunity to reframe what you heard in a way that articulates to them that you've understood them before advocating for yourself. This enables them to feel heard and recognized, provides them with the opportunity to correct you if you misunderstood, and keeps the conversation moving forward since they do not need to repeat themselves. When parties express an interest in the other, and portray a clear understanding of what the other is saying, all involved have a much greater opportunity for success.
- **GUIDELINES**
 - Listening and waiting silently for the other person to stop speaking so you can speak are not the same thing.
 - Model active listening skills if you feel you are not being heard. Help the other party understand that you are committed to showing them respect and understanding their point of view. It will likely be reciprocated.
 - You can indicate understanding without agreement—be explicit about this.
 - Speak only for yourself - how you felt, what you observed, etc. Do not make accusations or attribute motives to the other party.
 - Think about what you want to say before you say it. Consider the different ways your message can be interpreted and ensure that your message, and your intentions, are clearly understood.

RELATIONSHIP: SEPARATING THE PEOPLE FROM THE PROBLEM

WORKING ASSUMPTION: Dealing with the parties separately from the issues allows a negotiator to improve both the outcome and the relationship.

- **PROBLEM: A NEGATIVE RELATIONSHIP IMPACTS THE NEGOTIATION PROCESS AND THE OUTCOME**

When negotiators have a negative relationship they are no longer willing to spend the time to negotiate properly. Trust, communication and patience dwindle and parties seek to end the process as quickly as possible. If they meet again at a later date for a separate issue, chances are they will revert to the same quick and inefficient process as before.

- **CAUSE: NEGOTIATORS OFTEN COMBINE SUBSTANCE AND RELATIONSHIP**

When parties disagree with one another, they often make that disagreement personal. Attacking the party along with the problem results in poor communication, resentment, and a negotiation process where neither party feels comfortable or is willing to spend the time to reach the best possible agreement.

- **APPROACH: ADDRESS THE IMPORTANCE OF A GOOD WORKING RELATIONSHIP**

Negotiators should be hard on the issues and soft on the people. Parties should indicate the importance of the relationship. Quality of relationship should never be traded for substantive quality—work to keep these issues separated. A negotiator should encourage the other party to view them as a common ally, working together against a mutual problem.

- **GUIDELINES**

- Do not trade relationship for substance. Do not yield to threats trading one for the other.
- Be reliable - trust is very important in a working relationship and is difficult to re-gain.
- Treat every relationship as long-term - this is a small world.
- Model respectful behavior, regardless of how you are being treated.