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## NEGOTIATION

### Defining Bargaining and Negotiation

The general area of **conflict management** is concerned with the way that interdependent people manage the opposition of goals, aims, and values through communication. Communication plays an active role in shaping how people experience and work through conflict, a task that is very challenging given people's interdependence where one party can interfere with the other achieving a goal.<sup>1</sup> Within the last 25 years, a great deal of attention has been given to the methods we can use to manage conflict including bargaining or negotiation, mediation, and arbitration.

**Bargaining and negotiation** have been defined as forms of conflict management that involve two or more parties, who have a conflict of needs and desires that choose to negotiate through a give and take process involving proposals and counterproposals to search for a mutually acceptable agreement. While some theorists and researchers distinguish between bargaining and negotiation, saying that the former is a competitive activity between parties and the latter is a cooperative process, the two terms will be used interchangeably.<sup>2</sup>

Bargaining and negotiation differ from mediation and arbitration. Both mediation and arbitration emphasize the importance of an impartial third-party to help manage the conflict. **Mediation** utilizes a third-party neutral, called a mediator, who facilitates the two parties to talk and generate a mutually acceptable agreement, but who has no decision power. **Arbitration** is similar to a legal hearing where both parties present information regarding their position to a third-party neutral, an arbitrator, who then makes a decision regarding the best way to manage the conflict. Bargaining and negotiation do not rely on third parties to facilitate the process and make decisions; rather, the process and agreements are generated by the parties in conflict.<sup>3</sup>

### When to Choose Negotiation

Negotiation is a conflict strategy that allows you to meet your needs. There are certain moments and times when negotiation may actually hurt your ability to meet your needs and should be avoided. These times include:

- When you are in a situation that could cause you severe financial or personal risk.
- When your counterpart asks for something you cannot support because it's illegal or morally and ethically inappropriate.
- When there is high time pressure. The need to move quickly may hurt your ability to think clearly and cause you to underestimate the impact of your concession.

1 Putman, L. (2006). Definitions and approaches to conflict and communication. In J. G. Oetzel & S. Ting-Toomey (Eds.), *The SAGE handbook of conflict communication*, 1–32. Thousand Oaks, CA: Sage.

2 For example, Lewicki, R. J., Saunders, D. M., & Barry, B. (2006). *Negotiation*, 5th ed. Boston: McGraw-Hill Irwin, suggests that bargaining is a competitive process whereas negotiation is a collaborative one.

3 For further discussion on the differences among negotiation, mediation, and arbitration, see Domenici, K., & Littlejohn, S. W. (2001). *Mediation: Empowerment in conflict management*, 2nd ed. Cresskill, NJ: Waveland Press.

- When your counterpart acts in bad faith. If you can't trust their agreement, it makes little sense to follow through and negotiate.
- When you're not prepared. A failure to think through your positions, questions, and strategies will hinder your ability to achieve a good outcome.<sup>4</sup>

## Negotiation Approaches

All negotiations are similar in that they involve people taking initial positions, offering proposals to help resolve the conflict, making counter-proposals, offering concessions, and coming to agreement. However, negotiations can be distinguished according to the strategy and tactics that are used to conduct the negotiation. There are two general strategies and clusters of negotiation tactics: (1) distributive, and (2) integrative.<sup>5</sup>

**Distributive bargaining.** This type of bargaining emphasizes the importance of maximizing individual gains and minimizing losses. It adopts a "fixed" pie approach where resources are viewed as being limited and it becomes important to claim one's rightful share of the pie. Distributive bargaining is competitive with each bargainer taking positions to achieve victory over the other side. Distributive bargainers tend to use the following kinds of strategies and tactics:

- Distributive bargainers try to keep the opposing side from gaining information about their position or "bottom-line" while trying to collect information about the resistance point of the other party.
- Distributive bargainers misrepresent and withhold information as well as make exaggerated statements about their positions in order to mislead people about their true objectives.
- Distributive bargainers may use bluffs, threats, and manipulation to reduce the options of the other party.
- Distributive bargainers use threats, putdowns, demands, and blame statements.
- Distributive bargainers develop their position by using more and more facts to build the case for the validity of their proposals.

**Integrative bargaining.** This type of bargaining emphasizes the importance of maximizing joint gains. Rather than viewing bargaining from a win-lose perspective, integrative bargaining adopts a win-win orientation where parties try to create agreements where both can prosper. Integrative bargaining assumes that both parties share multiple overlapping issues and that the best way to deal with these multiple issues is to be flexible in one's position and to engage in cooperative problem solving. By engaging in cooperative problem solving the pie becomes expandable, as the focus becomes on developing creative solutions that expand the pie in ways that ensure both parties can get what they need. Integrative bargainers tend to use the following kinds of strategies and tactics:

- Integrative bargainers share their information openly and divulge their needs and objectives. Information disclosure is viewed as facilitating the problem-solving process as it allows bargainers to define problems, identify causes, develop solutions, and evaluate the merits of proposed solutions.
- Integrative bargainers tend to use soft rather than hard tactics. They tend to make statements that support the other party and use exploratory problem-solving messages.
- Integrative bargainers drop particular agenda items, separate issues, and recombine issues in creative ways as they move through the negotiation. This opens up the room for developing novel solutions to the problem.

4 Levinson, J. C., Smith, M. S. A., & Wilson, O. R. (1999). *Guerilla negotiating: Unconventional weapons and tactics to get what you want*. New York: John Wiley.

5 Lewicki, Roy J., Barry, B., & Saunders, D. M. (2007). *Essentials of Negotiation*, 4th ed. Boston: Irwin, McGraw-Hill. Putnam, L. L., & Poole, M. S. (1987).

## When to Use a Particular Negotiating Approach

While we may aspire to use an integrative bargaining approach, there are times when a distributive approach may be more useful to achieve our desired outcomes. Use a distributive approach:

- When your interests and the other party's clearly conflict.
- When the other party insists on taking a win-lose approach.
- When you do not need a long-term harmonious relationship.
- When you are powerful enough to prevail.
- When short-term goals are more important.

Use an integrative approach:

- When you and the other party have common interests.
- When the other party is willing to consider a win-win approach.
- When a continuing, harmonious relationship is important.
- When you are weaker or power is approximately equal.
- When long-term goals are more important.<sup>6</sup>

## Principled Negotiation

The dominant model of integrative bargaining is principled negotiation. The idea of principled negotiation was developed in Roger Fisher and William Ury's classic book, *Getting to Yes*. In this book they distinguish between what they call positional bargaining and principled negotiation. Positional bargaining occurs when people negotiate according to their positions or statements of what they want to get out of the situation. Positional bargaining is a form of distributive bargaining where both parties view the conflict as a win-lose situation. Positional bargaining can take one of two forms: (1) soft, and (2) hard.

**Soft positional bargaining** emphasizes the importance of building relationships, which may mean that the parties take a soft line toward the negotiation. This may create a win-lose outcome as they lose by giving up too much in an effort to maintain a friendly environment and good relationship. Soft positional bargaining is characterized by the following:

- Participants are friends.
- The goal is agreement.
- Make concessions to cultivate the relationship.
- Be soft on the people and the problem.
- Trust others.
- 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.<sup>7</sup>

6 Taken from: Adler, R. B., & Elmhorst, J. M. (2005). *Communicating at work: Principles and practices for business and the professions*, 163. Boston: McGraw-Hill.

7 Taken from Fisher, R., & Ury, W. (1981). *Getting to yes*, 2nd ed., 9. New York: Penguin.

**Hard positional bargaining** emphasizes the importance of getting what you want by playing hard-ball and being tough on the other person during a negotiation. Hard positional bargaining is characterized by the following characteristics:

- 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.<sup>8</sup>

**Principled negotiation** is based on the notion that we need to negotiate on the merits of the case. We need to find ways to work together in order to ensure that wise choices are made that benefit everyone. Principled negotiation operates from four simple rules:

1. **Separate the person from the problem.** It is possible to be soft on the people you are working with and hard on the problem. One can simultaneously act in ways that are respectful of the other and treat the other person well but work hard at addressing the substantive issues that are informing the conflict.
2. **Focus on interests, not positions.** Creative resolutions can be achieved by focusing on the party's mutually shared interests. **Positions** are the statements of what someone wants or needs from a situation while the **interest** is the underlying reason or motivation for the position. For example, an individual in a social service organization may take a position of wanting to stamp out corruption because their interest is in making sure the resources the organization has are totally used to benefit the client.
3. **Invent options for mutual gain.** It is important to generate multiple options that may meet both parties' interests. Techniques such as brainstorming can be used to generate multiple options from which a resolution can be created later.
4. **Insist on using objective criteria.** Principled negotiation emphasizes the importance of selecting objective criteria for selecting among competing alternatives. Rather than make negotiations a contest of the will, by creating objective criteria people can be open to reason and yield to principle, not pressure.

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<sup>8</sup> Taken from Fisher, R., & Ury, W. (1981). *Getting to yes*, 2nd ed., 9. New York: Penguin.

## CommGAP

The **Communication for Governance and Accountability Program (CommGAP)**, a global program at the World Bank, seeks to confront the challenges inherent in the political economy of development. By applying innovative communication approaches that improve the quality of the public sphere – by amplifying citizen voice; promoting free, independent, and plural media systems; and helping government institutions communicate better with their citizens – the program aims to demonstrate the power of communication principles, processes and structures in promoting good and accountable governance, and hence better development results.

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### Communication for Governance & Accountability Program (CommGAP)

#### External Affairs Vice Presidency

The World Bank  
1818 H Street, NW, MSN U11-1102  
Washington DC, 20433

**P** 202.458.7955   **F** 202.522.2654   **E** [commgap@worldbank.org](mailto:commgap@worldbank.org)

**WEB:** [www.worldbank.org/commgap](http://www.worldbank.org/commgap)   **BLOG:** [blogs.worldbank.org/publicsphere](http://blogs.worldbank.org/publicsphere)