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# Getting to YES

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NEGOTIATING AGREEMENT  
WITHOUT GIVING IN

*by* ROGER FISHER  
*and* WILLIAM URY  
*with* BRUCE PATTON, EDITOR

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# Getting to

# YES

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The authors of this book have been working together since 1977.

ROGER FISHER is Williston Professor of Law *Emeritus* at Harvard Law School, Founder and Director *Emeritus* of the Harvard Negotiation Project, and the Founding Chair of the Program on Negotiation at Harvard Law School. Raised in Illinois, he served in World War II with the U.S. Army Air Force, in Paris with the Marshall Plan, and in Washington, D.C., with the Department of Justice. He has also practiced law in Washington and served as a consultant to the Department of Defense. He was the originator and executive editor of the award-winning television series *The Advocates*. He has consulted widely with governments, corporations, and individuals. He is the author or coauthor of numerous prize-winning scholarly and popular books, including his most recent: *Beyond Reason: Using Emotions as You Negotiate*.

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BRUCE PATTON is Cofounder and Distinguished Fellow of the Harvard Negotiation Project, cofounder of the Program on Negotiation at Harvard Law School, and a founder and partner of Vantage Partners, LLC, a consulting firm that helps Global 2000 companies negotiate and manage their most critical relationships. As a mediator, he helped structure the settlement of the U.S.–Iranian hostage conflict, worked with Nobel Peace Prize winner Óscar Arias to ensure the success of the Arias Peace Plan for Central America, and worked with all parties in South Africa helping to create the constitutional process that ended apartheid. A graduate of Harvard College and Harvard Law School, he is also coauthor of the *New York Times* bestseller *Difficult Conversations: How to Discuss What Matters Most*.

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To our fathers,  
WALTER T. FISHER, MELVIN C. URY,  
and WILLIAM E. PATTON,  
who by example taught us the power of principle.

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# Preface to the Third Edition

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**T**hirty years have now passed since the initial publication of *Getting to YES*. We are delighted and humbled that so many people from so many places around the world continue to find it helpful in transforming their conflicts and negotiating mutually satisfying agreements. Little did we know at the time of its publication that this slender book would become a reference point in a quiet revolution that has over the course of three decades changed the way we make decisions within our families, organizations, and societies.

## The negotiation revolution

A generation ago, the prevailing view of decision-making in most places was hierarchical. The people at the top of the pyramids of power—at work, in the family, in politics—were supposed to make the decisions and the people at the bottom of the pyramids to follow the orders. Of course, the reality was always more complicated.

In today's world, characterized by flatter organizations, faster innovation, and the explosion of the Internet, it is clearer than ever that to accomplish our work and meet our needs, we often have to rely on dozens, hundreds, perhaps thousands of individuals and organizations over whom we exercise no direct control. We simply cannot rely on giving orders—even when we are dealing with employees or children. To get what we want, we are compelled to negotiate. More slowly in some places, more rapidly in others, the pyramids of power are shifting into networks of negotiation. This quiet revolution, which accompanies the better-known knowledge revolution, could well be called the “negotiation revolution.”

We began the first edition of *Getting to YES* with the sentence: “Like it or not, you are a negotiator.” Back then, for many readers, that was an eye opener. Now it has become an acknowledged reality. Back then, the term “negotiation” was more likely to be associated with specialized activities such as labor talks, closing a sale, or perhaps international diplomacy. Now almost all of us recognize that we negotiate in an informal sense with just about everyone we meet from morning to night.

A generation ago, the term “negotiation” also had an adversarial connotation. In contemplating a negotiation, the common question in people's minds was, “Who is going to win and who is going to lose?” To reach an agreement, someone had to “give in.” It was not a pleasant prospect. The idea that both sides could benefit, that both could “win,” was foreign to many of us. Now it is increasingly recognized that there are cooperative ways of negotiating our differences and that even if a “win-win” solution cannot be found, a wise agreement can still often be reached that is better for both sides than the alternative.

When we were writing *Getting to YES*, very few courses taught negotiation. Now learning to



negotiate well is accepted as a core competence with many courses offered in law schools, business schools, schools of government, and even in quite a few primary, elementary, and high schools.

In short, the “negotiation revolution” is now in full sway around the world, and we take heart that the commonsense tenets of principled negotiation have spread far and wide to good effect.

## The work ahead

Still, while progress has been considerable, the work is far from done. Indeed, at no time in the last three decades can we recall a greater need for negotiation based on a joint search for mutual gains and legitimate standards.

A quick survey of the news on almost any day reveals the compelling need for a better way to deal with differences. How many people, organizations, and nations are stubbornly bargaining over positions? How much destructive escalation results in bitter family feuds, endless lawsuits, and wars without end? For lack of a good process, how many opportunities are being lost to find solutions that are better for both sides?

Conflict remains, as we have noted, a growth industry. Indeed, the advent of the negotiation revolution has brought more conflict, not less. Hierarchies tend to bottle up conflict, which comes out into the open as hierarchies give way to networks. Democracies surface rather than suppress conflict, which is why democracies often seem so quarrelsome and turbulent when compared with more authoritarian societies.

The goal cannot and should not be to eliminate conflict. Conflict is an inevitable—and useful—part of life. It often leads to change and generates insight. Few injustices are addressed without serious conflict. In the form of business competition, conflict helps create prosperity. And it lies at the heart of the democratic process, where the best decisions result not from a superficial consensus but from exploring different points of view and searching for creative solutions. Strange as it may seem, the world needs *more* conflict, not less.

The challenge is not to eliminate conflict but to transform it. It is to change the way we *deal* with our differences—from destructive, adversarial battling to hard-headed, side-by-side problem-solving. We should not underestimate the difficulty of this task, yet no task is more urgent in the world today.

We are living in an age that future anthropologists might look back on and call the first human family reunion. For the first time, the entire human family is in touch, thanks to the communications revolution. All fifteen thousand or so “tribes” or language communities on this planet are aware of one another around the globe. And as with many family reunions, it is not all peace and harmony, but marked by deep dissension and resentment of inequities and injustices.

More than ever, faced with the challenges of living together in a nuclear age on an increasingly crowded planet, for our own sake and the sake of future generations, we need to learn how to change the basic game of conflict.

In short, the hard work of getting to “yes” has just begun.

## This edition

We have often heard from readers that *Getting to YES* continues to serve as an accessible guide to collaborative negotiation in a wide variety of fields. At the same time, we realize a younger audience is sometimes puzzled by stories and examples that were common knowledge thirty years ago, and many readers are curious about contemporary cases. So in this edition we have undertaken a careful

revision and updating of examples and added some new ones where appropriate.

We have added to our toolbox considerably in thirty years, as captured in such books as *Getting Past No*, *Difficult Conversations*, *Beyond Reason*, and *The Power of a Positive No*, each of which explores important challenges in dealing collaboratively and effectively with serious differences. We've made no attempt to summarize all of that material here, since one of the virtues of *Getting to YES* is that it is short and clear. Instead, in this revision we have added a few relevant ideas where they help clarify our intent, and in other places made slight revisions to update our thinking. For example, we have made our answer to the final question in the book about negotiation power fully consistent with the “seven elements of negotiation” framework we teach at Harvard Law School.

One adjustment we considered, but ultimately rejected, was to change the word “separate” to “disentangle” in “separate the people from the problem,” the powerful first step in the method of principled negotiation. Some readers have taken this phrase to mean leave aside the personal dimension of negotiation and just focus on the substantive problem, or to ignore emotional issues and “be rational.” That is not our intent. Negotiators should make dealing with people issues a priority from the beginning to the end of a negotiation. As the text states at the start, “Negotiators are people first.”

Our belief is that by disentangling the people from the problem you can be “soft on the people” while remaining “hard on the problem.” So long as you remain respectful and attentive to people issues, you should be able to strengthen a relationship even as you disagree about substance.

Finally, we have added a bit of material on the impact of the means of communication in negotiation. The growth of email and texting and the creation of global “virtual” organizations has made this an important variable, especially in light of research showing its impact on negotiation dynamics and results.

## **Our human future**

We are each participants in a pioneering generation of negotiators. While negotiation as a decision-making process has been around since the beginning of the human story, never has it been so central to human life and the survival of our species.

As the negotiation revolution unfolds, our aspiration is that the principles in this book continue to help people—individually and collectively—negotiate the myriad dilemmas in their lives. In the words of the poet Wallace Stevens: “After the final no there comes a yes and on that yes the future world depends.”

We wish you much success in getting to that yes!

Roger Fisher  
William Ury  
Bruce Patton

# Preface to the Second Edition

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**D**uring the last ten years negotiation as a field for academic and professional concern has grown dramatically. New theoretical works have been published, case studies have been produced, and empirical research has been undertaken. Ten years ago very few professional schools offered courses on negotiation; now they are all but universal. Universities are beginning to appoint faculty who specialize in negotiation. Consulting firms now do the same in the corporate world.

Against this changing intellectual landscape, the ideas in *Getting to YES* have stood up well. They have gained considerable attention and acceptance from a broad audience and are frequently cited as starting points for other work. Happily, they remain persuasive to the authors as well. Most questions and comments have focused on areas in which the book has proven ambiguous, or where readers have wanted more specific advice. We have tried to address the most important of these topics in this revision.

Rather than tampering with the text (and asking readers who know it to search for changes), we have chosen to add new material in a separate section at the end of the second edition. The main text remains complete and unchanged from the original, except for updating the figures in examples to keep pace with inflation and rephrasing in a few places to clarify meaning and eliminate sexist language. We hope that our answers to “Ten Questions People Ask About *Getting to YES*” prove helpful and meet some of the interests readers have expressed.

We address questions about (1) the meaning and limits of “principled” negotiation (it represents practical, not moral, advice); (2) dealing with someone who seems to be irrational or who has a different value system, outlook, or negotiating style; (3) questions about tactics, such as where to meet, who should make the first offer, and how to move from inventing options to making commitments; and (4) the role of power in negotiation.

More extensive treatment of some topics will have to await other books. Readers interested in more detail about handling “people issues” in negotiation in ways that tend to establish an effective working relationship might enjoy *Getting Together: Building Relationships as We Negotiate*, by Roger Fisher and Scott Brown, also available from Penguin Books. If dealing with difficult people and situations is more your concern, look for *Getting Past No: Negotiating in Difficult Situations*, by William Ury, published by Bantam Books. No doubt other books will follow. There is certainly much more to say about power, multilateral negotiations, cross-cultural transactions, personal styles, and many other topics.

Once again we thank Marty Linsky, this time for taking a careful eye and a sharp pencil to our new material. Our special thanks to Doug Stone for his discerning critique, editing, and occasional rewriting of successive drafts of that material. He has an uncanny knack for catching us in an unclear thought or paragraph.

For more than a dozen years, Bruce Patton has worked with us in formulating and explaining all of the ideas in this book. This past year he has pulled the laboring oar in converting our joint thinking into an agreed text. It is a pleasure to welcome Bruce, editor of the first edition, as a full coauthor of this second edition.

R.  
W.

# Acknowledgments

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This book began as a question: What is the best way for people to deal with their differences? For example, what is the best advice one could give a husband and wife getting divorced who want to know how to reach a fair and mutually satisfactory agreement without ending up in a bitter fight? Perhaps more difficult, what advice would you give *one* of them who wanted to do the same thing? Every day, families, neighbors, couples, employees, bosses, businesses, consumers, salesmen, lawyers, and nations face this same dilemma of how to get to yes without going to war. Drawing on our respective backgrounds in international law and anthropology and an extensive collaboration over the years with practitioners, colleagues, and students, we have evolved a practical method for negotiating agreement amicably without giving in.

We have tried out ideas on lawyers, businessmen, government officials, judges, prison wardens, diplomats, insurance representatives, military officers, coal miners, and oil executives. We gratefully acknowledge those who responded with criticism and with suggestions distilled from their experience. We benefited immensely.

In truth, so many people have contributed so extensively to our learning over the years that it is no longer possible to say precisely to whom we are indebted for which ideas in what form. Those who contributed the most understand that footnotes were omitted not because we think every idea original but rather to keep the text readable when we owe so much to so many.

We could not fail to mention, however, our debt to Howard Raiffa. His kind but forthright criticism has repeatedly improved the approach, and his notions on seeking joint gains by exploiting differences and using imaginative procedures for settling difficult issues have inspired sections on these subjects. Louis Sohn, deviser and negotiator extraordinaire, was always encouraging, always creative, always looking forward. Among our many debts to him, we owe our introduction to the idea of using a single negotiating text, which we call the One-Text Procedure. And we would like to thank Michael Doyle and David Straus for their creative ideas on running brainstorming sessions.

Good anecdotes and examples are hard to find. We are greatly indebted to Jim Sebenius for his accounts of the Law of the Sea Conference (as well as for his thoughtful criticism of the method), to Tom Griffith for an account of his negotiation with an insurance adjuster, and to Mary Parker Follett for the story of two men quarreling in a library.

We want especially to thank all those who read this book in various drafts and gave us the benefit of their criticism, including our students in the January Negotiation Workshops of 1980 and 1981 at Harvard Law School, and Frank Sander, John Cooper, and William Lincoln, who taught those workshops with us. In particular, we want to thank those members of Harvard's Negotiation Seminar whom we have not already mentioned; they listened to us patiently these last two years and offered many helpful suggestions: John Dunlop, James Healy, David Kuechle, Thomas Schelling, and

Lawrence Susskind. To all of our friends and associates we owe more than we can say, but the final responsibility for the content of this book lies with the authors; if the result is not yet perfect, it is not for lack of our colleagues' efforts.

Without family and friends, writing would be intolerable. For constructive criticism and moral support we thank Caroline Fisher, David Lax, Frances Turnbull, and Janice Ury. Without Francis Fisher this book would never have been written. He had the felicity of introducing the two of us some four years ago.

Finer secretarial help we could not have had. Thanks to Deborah Reimel for her unfailing competence, moral support, and firm but gracious reminders, and to Denise Trybula, who never wavered in her diligence and cheerfulness. And special thanks to the people at Word Processing, led by Cynthia Smith, who met the test of an endless series of drafts and near impossible deadlines.

Then there are our editors. By reorganizing and cutting this book in half, Marty Linsky made it far more readable. To spare our readers, he had the good sense not to spare our feelings. Thanks also to Peter Kinder, June Kinoshita, and Bob Ross. June struggled to make the language less sexist. Where we have not succeeded, we apologize to those who may be offended. We also want to thank Andrea Williams, our adviser; Julian Bach, our agent; and Dick McAdoo and his associates at Houghton Mifflin, who made the production of this book both possible and pleasurable.

Finally, we want to thank Bruce Patton, our friend and colleague, editor and mediator. No one has contributed more to this book. From the very beginning he helped brainstorm and organize the syllogism of the book. He has reorganized almost every chapter and edited every word. If books were movies, this would be known as a Patton Production.

Roger Fisher  
William Ury

For the second edition of this book we would like to thank Jane von Mehren, our long-time editor at Penguin Books, for her support, encouragement, and enthusiasm in making the second edition happen. With the third edition, Rick Kot has admirably filled that role and we are grateful for his patience, good sense, and fine editorial hand. Without Rick, this update might not have seen the light of day.

We also thank Mark Gordon, Arthur Martirosyan, and our friends at Mercy Corps for the account of Iraqi farmers negotiating with the national oil company.

R.  
W.  
B.

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# Introduction

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Like it or not, you are a negotiator. Negotiation is a fact of life. You discuss a raise with your boss. You try to agree with a stranger on a price for his house. Two lawyers try to settle a lawsuit arising from a car accident. A group of oil companies plan a joint venture exploring for offshore oil. A city official meets with union leaders to avert a transit strike. The United States Secretary of State sits down with his Russian counterpart to seek an agreement limiting nuclear arms. All these are negotiations.

Everyone negotiates something every day. Like Molière's Monsieur Jourdain, who was delighted to learn that he had been speaking prose all his life, people negotiate even when they don't think of themselves as doing so. You negotiate with your spouse about where to go for dinner and with your child about when the lights go out. Negotiation is a basic means of getting what you want from others. It is back-and-forth communication designed to reach an agreement when you and the other side have some interests that are shared and others that are opposed (as well as some that may simply be different).

More and more occasions require negotiation; conflict is a growth industry. Everyone wants to participate in decisions that affect them; fewer and fewer people will accept decisions dictated by someone else. People differ, and they use negotiation to handle their differences. Whether in business, government, or the family, people reach most decisions through negotiation. Even when they go to court, they almost always negotiate a settlement before trial.

Although negotiation takes place every day, it is not easy to do well. Standard strategies for negotiation often leave people dissatisfied, worn out, or alienated—and frequently all three.

People find themselves in a dilemma. They see two ways to negotiate: soft or hard. The soft negotiator wants to avoid personal conflict and so makes concessions readily to reach agreement. He or she wants an amicable resolution; yet often ends up exploited and feeling bitter. The hard negotiator sees any situation as a contest of wills in which the side that takes the more extreme positions and holds out longer fares better. He or she wants to win; yet often ends up producing an equally hard response that exhausts the negotiator and his or her resources and harms the relationship with the other side. Other standard negotiating strategies fall between hard and soft, but each involve an attempted trade-off between getting what you want and getting along with people.

There is a third way to negotiate, a way neither hard nor soft, but rather both hard *and* soft. The method of *principled negotiation* developed at the Harvard Negotiation Project is to decide issues on their merits rather than through a haggling process focused on what each side says it will and won't do. It suggests that you look for mutual gains whenever possible, and that where your interests conflict, you should insist that the result be based on some fair standards independent of the will of either side. The method of principled negotiation is hard on the merits, soft on the people. It employs



no tricks and no posturing. Principled negotiation shows you how to obtain what you are entitled to and still be decent. It enables you to be fair while protecting you against those who would take advantage of your fairness.

This book is about the method of principled negotiation. The first chapter describes problems that arise in using the standard strategies of positional bargaining. The next four chapters lay out the four principles of the method. The last three chapters answer the questions most commonly asked about the method: What if the other side is more powerful? What if they will not play along? And what if they use dirty tricks?

Principled negotiation can be used by diplomats in arms control talks, investment bankers negotiating corporate acquisitions, and by couples in deciding everything from where to go for vacation to how to divide their property if they get divorced. It is even a staple of hostage negotiators seeking the release of kidnap victims. Anyone can use this method.

Every negotiation is different, but the basic elements do not change. Principled negotiation can be used whether there is one issue or several; two parties or many; whether there is a prescribed ritual, as in collective bargaining, or an impromptu free-for-all, as in talking with hijackers. The method applies whether the other side is more experienced or less, a hard bargainer or a friendly one. Principled negotiation is an all-purpose strategy. Unlike almost all other strategies, if the other side learns this one, it does not become more difficult to use; it becomes easier. If they read this book, all the better.

# I THE PROBLEM

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## 1. Don't Bargain Over Positions

# 1 Don't Bargain Over Positions

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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:

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Customer	Shopkeeper
How much do you want for this brass dish?	That is a beautiful antique, isn't it? I guess I could let it go for \$75.
Oh come on, it's dented. I'll give you \$15.	Really! I might consider a serious offer, but \$15 certainly isn't serious.
Well. I could go to \$20, but I would never pay anything like \$75. Quote me a realistic price.	You drive a hard bargain, young lady. \$60 cash, right now.
\$25.	It cost me a great deal more than that. Make me a <i>serious</i> offer.
\$37.50. That's the highest I will go.	Have you noticed the engraving on that dish? Next year pieces like that will be worth twice what you pay today.

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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 outcomes

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 in 1961 by the breakdown of the talks under President John F. Kennedy for a comprehensive ban on nuclear testing, which, if enacted, might have headed off much of the superpower arms race that ensued over the next three decades. 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.

Focusing on positions nearly led to unnecessary bloodshed in a dispute between farmers and the national oil company in Iraq after the fall of the Saddam Hussein regime. Displaced farmers in the south of Iraq had banded together, leased arable land from the government, and used their last savings and borrowings to plant crops. Unfortunately, only a few months later the farmers received a letter calling for them to vacate the land immediately in accord with the fine print of their lease, because oil had been discovered under it. The oil company said, “Get off our land.” The farmers replied, “It's our land, and we're not leaving.” The oil company threatened to call the police. The farmers said, “There are more of us,” so the national oil company threatened to bring in the army. “We have guns too; we aren't leaving,” came the reply. “We have nothing left to lose.”

As troops gathered, bloodshed was averted only by the last-minute intervention of an official fresh from a training program in alternatives to positional bargaining. “How long will it be before you expect to produce oil on this land?” he asked the national oil company. “Probably three years,” they replied. “What do you plan to do on the land over the next few months?” “Mapping; a little seismic surveying of the underground layers.” Then he asked the farmers, “What's the problem with leaving now, as they've asked?” “The harvest is in six weeks. It represents everything we own.”

Shortly thereafter an agreement was reached: The farmers could harvest their crops. They would not impede the oil company's preparatory activities. Indeed, the oil company hoped soon to hire many of the farmers as laborers for its construction activities. And it did not object if they continued to plant crops in between oil derricks.

As illustrated in these examples, the more attention that is paid to positions, the 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, or no agreement at all, when a good agreement was possible.

### **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 willpower 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 *Avatar* 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 often 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.

Problem Positional Bargaining: Which Game Should You Play?	
Soft	Hard
Participants are friends.	Participants are adversaries.
The goal is agreement.	The goal is victory.
Make concessions to cultivate the relationship.	Demand concessions as a condition of the relationship.
Be soft on the people and the problem.	Be hard on the problem and the people.
Trust others.	Distrust others.
Change your position easily.	Dig in to your position.
Make <i>offers</i> .	Make threats.
Disclose your bottom line.	Mislead as to your bottom line.
Accept one-sided losses to reach agreement.	Demand one-sided gains as the price of agreement.
Search for the single answer: the one <i>they</i> will accept.	Search for the single answer: the one <i>you</i> will accept.
Insist on agreement.	Insist on your position.
Try to avoid a contest of will.	Try to win a contest of will.
Yield to pressure.	Apply pressure.

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 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:** Invent multiple options looking for mutual gains before deciding what to do.
- Criteria:** Insist that the result be based on some objective standard.

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 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. Making concessions “for the relationship” is equally problematic, because it can actually encourage and reward stubbornness, which can lead to resentment that ends up damaging the relationship. Hence, even before working on the substantive problem, the “people problem” should be disentangled from it and addressed on its own. 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 that 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.*

<b>Problem</b> Positional Bargaining: Which Game Should You Play?		<b>Solution</b> Change the Game—Negotiate on the Merits
<b>Soft</b> Participants are friends. The goal is agreement.	<b>Hard</b> Participants are adversaries. The goal is victory.	<b>Principled</b> Participants are problem-solvers. The goal is a wise outcome reached efficiently and amicably.
Make concessions to cultivate the relationship. Be soft on the people and the problem. Trust others.	Demand concessions as a condition of the relationship. Be hard on the problem and the people. Distrust others.	<b>Separate the people from the problem.</b> Be soft on the people, hard on the problem. Proceed independent of trust.
Change your position easily. Make offers. Disclose your bottom line.	Dig in to your position. Make threats. Mislead as to your bottom line.	<b>Focus on interests, not positions.</b> Explore interests. Avoid having a bottom line.
Accept one-sided losses to reach agreement. Search for the single answer: the one <i>they</i> will accept.	Demand one-sided gains as the price of agreement. Search for the single answer: the one <i>you</i> will accept.	<b>Invent options for mutual gain.</b> Develop multiple options to choose from; decide later.
Insist on agreement. Try to avoid a contest of will. Yield to pressure.	Insist on your position. Try to win a contest of will. Apply pressure.	<b>Insist on using objective criteria.</b> Try to reach a result based on standards independent of will. Reason and be open to reason; yield to principle, not pressure.

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,



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