Mediation and Negotiation

Tactics for Group and Personal Survival in a Contentious World

Presented by KJPS Howe
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Why are we here?

- To START **to gain knowledge** about the art of **principled** negotiation
- TO START **to learn** whether we are an **effective** leader
- To START **to understand** why we sometimes **fail**
- TO START **to appreciate our partners** in the process of finding a solution.
- To START **to know ourselves** and our **capabilities**

“We start from the very beginning – it is a very good place to start” – The Sound of Music
What we will NOT do:

This hour long discussion will NOT make you an expert at mediation and negotiation

With apologies

Nothing will make you an expert overnight – “Poker for Dummies”
What is Negotiation?

- What we do in everyday life...
What does a negotiator want?

Negotiators have two interests:

~the substance being discussed

AND

~the relationship between they and the other negotiator

And a good stiff drink at the end of negotiations
Whenever you're in conflict with someone, there is one factor that can make the difference between damaging your relationship and deepening it. That factor is attitude.

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three basic People Problems

- Differences of perception among the parties
- Emotions
- Communication

“People are the problem”
- Douglas Adams
Differences of perception among the parties

- Crucial for both sides to understand the other's viewpoint
  - A negotiator should work to ensure all parties try to put themselves in the other's place.
- DO NOT assume that their worst fears will become the actions of the other party.
- DO NOT blame the other for the problem.
- DO make proposals which would be appealing to the other side.
- DO involve the parties in the process,
  - They shall become more likely to become supportive of the outcome
EMOTIONS

- People SHALL react with fear or anger when they feel their interests are threatened.
- ALWAYS acknowledge emotions and try to understand their source.
- DO acknowledge that certain emotions are present (even when you don't see those feelings as being “reasonable”)
- DO NOT Dismiss others’ feelings as unreasonable
- DO allow the other side to express their emotions.
- DO NOT react emotionally to emotional outbursts.
- DO express symbolic gestures such as apologies or an expression of sympathy to help defuse strong emotions.
If you do not remain \textit{(relatively)} calm during all stages of negotiation and mediation...

...you \textbf{shall} fail
Issues in how we communicate

Generational differences
Cultural differences
Different languages
Different gestures
Electronic inhibitions - - - - what else?

When conversations turn from routine to crucial, we’re often ALREADY in trouble.

That’s because emotions don’t exactly prepare us to converse effectively.

And – argument is a form of negotiation – just not an effective form.
Who is the only person in the argument we can influence once the discussion turns emotional?
“THEY are WRONG!”

- We wish we could “fix them.”
- We wish they would “see things right.”

“If wishes were thrushes, beggars would eat birds.” - William Camden 1605
If the discussion becomes emotional...

...what are the two things people gravitate towards doing?
It is better to conquer yourself than to win a thousand battles. Then the victory is yours. It cannot be taken from you, not by angels or by demons, heaven or hell - Buddha
Nietzsche was a dick – but in this instance he was correct.

But thus do I counsel you, my friends: distrust all in whom the impulse to punish is powerful!

(Friedrich Nietzsche)
The relationship tends to become entangled* in the problem.
Breakdowns in Communication

- Grandstanding for constituencies.
- Planning their responses.
- Misunderstandings occur.
Breakdowns in Communication (continued)

- **Active listening:**
  - Listeners MUST **Give** the speaker their full attention.
  - Listeners SHOULD occasionally **summarize** the speaker's points to confirm understanding.
    
    **NOTE:** Understanding the other's case **does not mean agreeing with it**.

- **Speakers** MUST direct their speech toward the other parties.
- **Speakers** MUST keep focused on what they are trying to communicate.
- **Each side** should **avoid blaming or attacking** the other.
- **Each Side** should **speak about themselves**.
How do they do it?

- People who are skilled at dialogue do their best to make it safe for everyone to add their meaning to the shared pool—even ideas that at first glance appear controversial, wrong, or at odds with their own beliefs.

- Now, obviously, they don’t agree with every idea; they simply do their best to ensure that all ideas find their way into the open.
They first find common ground

“First, can we agree that it is a big back yard?”
When people feel safe to share their thoughts without holding back, then they can gather information. The pool of information allows people to become informed. The people start to share meaning and purpose and actual intent.
Crucial Conversations

Diagram:
- SILENCE
  - WITHDRAWING
    - AVOIDING
      - MASKING
  - SAFETY
    - CONTROLLING
      - LABELING
        - ATTACKING
          - VIOLENCE
- ME
  - See/Hear
  - Tell a Story
  - Feel
  - Act
- OTHER
  - Act
  - Feel
  - Tell a Story
  - See/Hear

Dialogue
Pool of Shared Meaning
Strategically aiming toward success

Strategy

plan or method to achieve a goal or systematic activity in a business context.

organizational activity
What is Positional Bargaining?

- Each side takes a position and argues for it.
- Concessions are made to reach a compromise.

Sometimes an agreement is made – sometimes not – but, this often fails the test of 3 for Principled Negotiation.
Three Criteria of Principled Negotiation

- **First:** Shared search for objective criteria.
- **Second:** Each party must keep an open mind.
- **Third:** Negotiators must never give in to pressure, threats, or bribes.
What is wrong with “Positions”?

- Positions are often derived from the other party’s stance – versus – needs of constituents.
- Positions are easy to entrench in – and to not move from.
- Positions are politically stable – but seldom allow positive engagement for all parties.

Therefore - Positions often provide “unwise outcomes”
Secondary Positional Bargaining

Choosing how to handle a mediation/negotiation....

Hard – or – soft....
Hard & Soft

How do YOU approach a difficult negotiation?

- Do you want people to *get along*?
- Do you consider the other folks “adversaries”?
- What are your *priorities*?
- What is the *objective* in a negotiation?
Which Game Should You Play?

Answer: Change the game Negotiate on the merits
<table>
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<tr>
<th>Problem</th>
<th>Solution</th>
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| **Soft** | **Hard** | **Principled:** Participants are “problem-solvers”.
The goal is a “wise outcome” reached efficiently and amicably. |
| Participants are friends. | Participants are adversaries. | The goal is “victory.” |
| The goal is “agreement.” | | |
| **Make concessions to cultivate the relationship.** | **Demand concessions as a condition of the relationship.** | **Separate the people from the problem:** Be soft on the people, hard on the problem. Proceed independent of trust. |
| Be soft on people and the problem. Trust others. | Be hard on the problem and the people. Distrust others. | |
| **Change your position easily.** | **Dig into your position.** | **Focus on Interests, not on positions** Explore interests. Avoid having a “Bottom Line.” |
| Make offers. Disclose your “Bottom Line.” | Make threats. Mislead as to your “Bottom Line.” | |
| **Accept one-sided losses to reach an agreement.** | **Demand one-sided gains as the price of agreement.** | **Invent Options for Mutual Gain** Develop multiple options to choose from, decide later. |
| Search for the single answer: The one “they” will accept. | Search for the single answer: the one “you” will accept. | |
| **Insist on agreement.** | **Insist on your position.** | **Insist on using objective criteria** Try to reach a result based on standards independent of will. |
| Try to avoid a contest of wills. Yield to pressure. | Try to win a contest of wills. Create pressure. | Reason and be open to reason; yield to principle, not pressure. |
So in negotiation -

- Be fair to oneself
- Be fair to the parties involved
- Be fair to the issues involved
- Be objective even when your interests are involved

(this is not saying: “be selfless”)
- **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 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... use them well.
Why Mediate?

- You were asked?
- You were placed in a position to assist?
- You love control of a volatile situation?
- Because it is your duty?
- Because it is what you do?
- Because no one else is qualified?

The greatest aspiration of any person is the ability to levee peace where it is absent.
What you will do if you want to be good

- Read (study)
- Practice
- Study people's motivations
- Talk with people about their experiences
- Keep your emotions in check and be genuine

“Hey – can you tell me how to get to Carnegie Hall?”

“Yes I can, son – Practice – practice – practice!” — Abbott and Costello
Whenever you're in conflict with someone, there is one factor that can make the difference between damaging your relationship and deepening it. That factor is attitude.

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Thank you for your time and attention

References (for those of you who simply could not get enough!)

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