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Getting to "Yes" Through Mutual Interest

An Interview with Roger Fisher

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"Don't be a typical haggler. You have human beings involved. Much more of success in negotiation depends on finding out what else the other side cares about besides money."



Roger Fisher, director of the Harvard Negotiation Project and Williston Professor of Law, Emeritus, at Harvard Law School, is one of the world's leading authorities on negotiation. He has taught and written extensively on international law and international conflict, and for more than a decade has devoted himself almost exclusively to the task of understanding and improving the process by which people, organizations, and governments deal with their differences. He has advised negotiators and helped broker peace agreements in business and international politics from South Africa to El Salvador. He is the co-author of several books, including the bestseller Getting to Yes.



Getting To Yes talks about "principled negotiation" - what is it?

This is not a trademarked method for negotiating, which either people do or don't do. In fact, concepts such as "BATNA" (the best alternative to a negotiating agreement) can be used in many situations. When you are negotiating you want to know what your walk-away alternative is and you want to know what the other guy's walk-away alternative is. If you don't reach agreement, what's he going to do? The use of BATNA is a

supplemental skill that anyone can add to whatever they do.

Is your book a particular method or overall approach?

The book is not advocating one special method called principled negotiation. Instead, I think it's one of the first books on negotiation written for everybody, not for just one side, not telling you how to bluff, how to deceive or how to threaten. It's written for every type of negotiation.

What are some of the key elements of principled negotiation?

There are seven elements: communication, relationship, interests, options, legitimacy, commitments, and BATNA. You have to ask: What will I do if I walk away? What will the other side do if I walk away? What is my BATNA? Also, what commitments am I prepared to make?

After establishing these parameters I can begin to negotiate. I go through all seven elements and then try to guess what your walk-away choice is. I try to guess what commitment you would like and what one I might be prepared to make. And the more I prepare on all seven elements, the better my ability to negotiate. I don't have to prepare all seven elements. I don't have to insist they use the language of BATNA. This is a guide book, a set of supplemental tools, and you negotiate differently in each transaction.

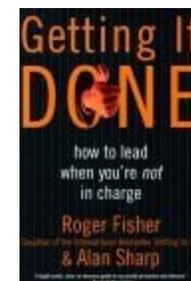
What is "legitimacy" in principled negotiation?

You want to propose legitimate criteria that will lead to a fair solution. If you're buying or selling a car, you establish the market price, perhaps in reference to a catalog. Then the other guy's criteria are not as persuasive. Legitimacy tends to be: are people persuaded by you? Why should you pay more than this? Why should I pay more than that? So you come in with objective criteria and those are available to everyone all the time.

How do you devise creative options?

There is power in knowing the other side's interests. You have to think, "If I were in his shoes, here's what I'd be willing to do." So, I want to think about those issues. And I want to think about my own interests. What do I care about in this negotiation? I want to have options. I want to communicate. There's power in a good relationship. The time I spend building a relationship pays off.

Do you have to be able to "sell" the solution?



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I draft how parties might announce a resolution to their colleagues and to the public. Everybody has their constituency problem; in other words, how will I explain the outcome to X or Y? How can I make that look good? And so, I will draft an announcement as part of the negotiating process.

This is what I did in the Iranian hostage crisis in 1979. I'll leave some questions with Iran, but I've drafted how the United States could announce the hostages are free. "They are flying home, we paid no blackmail, we paid no ransom, we can recognize a new government, and they've agreed to abide by international law."

Getting To Yes was first published in 1981 and then a second edition was released in 1991. What has changed since then?

I have spent more time realizing the good that a mediator can achieve as a third party. I found that rather than insist on mediation, I can do better if I do not speak with authority but if I embrace something that might work for both of the parties. For example, in the Iranian hostage crisis, the White House (Lloyd Cutler) called me up and said, "See what you can do. You have no authority to speak for the United States but you can reach me 24 hours a day, through the switchboard. I said, "Perfect."

I discussed a number of terms with the Iranian representatives but I told them, I had no authority to speak for the United States. I'll make recommendations to them, but what issues are we going to look at? So we went through a whole set of bank accounts to separate those that were the Shah's family money and those that were government money. Now that the Shah had died, Iran wanted the United States to help them find out which bank accounts might be theirs. And I said, "I used to teach international law; I think that's an obligation we take on with a new government." They said they were not recognized. I said, "You ought to be recognized too."

As we went through various issues, I was not making a commitment for the President and thus I could speak much more freely. I find that I did not emphasize that power enough. A negotiator who has no authority to commit anybody is therefore freer to brainstorm options and see what they can do. I find I'd rather have that freedom if I'm negotiating for a client.

Thus, if I can be a facilitator, unofficial mediator, a knowledgeable middleman, I can find out the other party's interests and try to invent something that works for both sides. So I learned that an informal third party role can be very beneficial. It is better than simply being a lawyer hired by my client to make an excellent case.

What is the stereotype of negotiations?

Many people have a vision of negotiations as haggling in the market over a rug. They begin on the premise that I've got my position and I make an offer, and he's got his position and he can make a small concession. Then we can go back and forth. In Afghanistan some years ago when the Russians were around and there were few tourists, my wife and I visited Kabul. You could pick up a good Afghan rug for almost nothing. I'd negotiate the best price I could get and then walk next door and get the best price on a different rug. That's the haggling model.

But, in the business context, people like to have a relationship, they like to have colleagues not enemies, they like to feel that they are people they can be proud of, they've behaved. They did not just rip off their neighbors by deception. Most of us don't like to deceive and bluff too much.



What is an example of where you have assisted in reach a creative solution in a business context?

One case is a business man who had a chain of radio stations down in North Carolina and elsewhere. He said, "Do you have a solution for greed?" I said, not for greed, but tell me about the problem. "Well, they're just too greedy! I want to buy this radio station from the operator." An investor/partner owned two-thirds of the station; the operator owned one-third of it. And the investor was prepared to accept the price offered but the operator wanted a greater share for his third.

I asked him to tell me about the operator and his wife. And he said, "What's that got to do with it?" I asked, "Does he have kids?" Again, "What's that got to do with it?" "Has he built this radio station up?" "Yes." "Any other radio stations in town?" "No."

"So if he sells out to you and there's no role for him, he's got to go look for another investor, got to look for another radio station in another town. He's got to move the kids and his wife. I mean, who wants to move? What's his wife do?" "Oh, I remember," he replies, "she's on the School Board." That's good, it's going to be even harder for them to move. Two kids in school and a wife on the School Board. "Why do you have to buy him out?" He tells me that the FCC rules say you have to have three-quarters of a station in order to offset gains and losses of subsidiaries. He is thinking that two-thirds is not enough, so he has to buy the operator out." I said, "You've got to buy a fraction down from one-third to one-quarter. Let him stay on as manager."

He replied, "I hate him." I told him that the operator built the station up from nothing to the best in the market. I suggested the buyer offer him some cash, a fair slice of cash

for the difference between one-quarter and one-third and explain that he needed to buy because he had losing stations and wanted to offset the new stations gains against their losses. "Just try that out. And give him a contract for two years as manager and see how he likes that. Just offer it to him." He said, "It won't work, I know this guy." I responded, "Well I don't know him at all but you can try."

Ten days later he called me up and said, "You'll never guess what happened. He fell for it." I said, "Fell for it? You've met his interests. He stays at the station. He stays in the town. You paid a fair price for his going from a third of the station to a quarter. He stays on as Manager."

Should negotiations be about more than just money?

Too often in business the parties concentrate on their differences over money. Money is so quantifiable, so easy for people to focus on. In this example, the operator's wife doesn't want to move and she's on the School Board, the kids are playing football, seventh or eighth grade, something like that. Those things are much more important to most of us. Don't be a typical haggler. You have human beings involved. Much more of success in negotiation depends on finding out what else the other side cares about besides money.

Is principled negotiation only useful in the context of a long-term relationship as opposed to a one-time transaction?

Even in a one-time transaction your reputation is important. The way you behave will spread throughout your community. I have found that you should want to make the other party a friend, a colleague, as you may want to do business again. I'm going to give the other party a fair price, so that he enjoys the contract and he comes back again and tries to sell me some more of what I want. You can keep building the relationship

How does your book apply to a one-time transaction, like buying a piece of property?

If it's a really special house, I want to make sure I'm not taken advantage of and I want to make sure the vendor doesn't get screwed. And I'll be coming in with data: what did the house next door sell for? What did the fixed-up house down the street go for? I will try and line up standards of fairness that would be persuasive to him. For instance, what the house cost, what it cost new, what it cost to fix it up.

That said, there's a figure that the seller will want. Maybe he will want a million dollars for that because there's a price he paid for it, here's what he has done to it and he has a

figure the market can live with. There's a view of the river, maybe he is throwing in the hall rug.

As a seller, I'll give the potential buyer standards and I won't indicate my demands until the last penny as it's important to the buyer to get some success in beating me down a little.

Even though both parties may "win" in a transaction, what do you do if one party regrets that we "left money on the table" and thus could have fared better in the negotiation?

Frequently when one party thinks they left money on the table they both could have done better. So "money on the table" generally means it's not just my money. If we had known each other's interests more carefully, we'd thought more carefully, it would come out better for both of us. For example, in marriage you have to think of your spouse's interests and how to make both parties happy. If a marriage is only a zero-some game then it's not going to last.

Why is negotiating between owners and employees often so difficult?

The words "collective bargaining" don't help: I'll do this, if you do that. That's a bargain. Money is so countable, but you can't count friendship. You can't quantify the progress going from a "fair friend" to a "pretty good friend." There's no number on that. But if you're negotiating with someone, you want them to trust you and if you can demonstrate your trustworthiness and if he believes that, it's a big deal. But there's no real number on it. People are used to bargaining with strangers or playing poker with strangers, all for money, all for chips. Instead, you try to figure out something good for both of you.

The current National Hockey League dispute with the player's union has resulted in the first major professional league to miss a full season of play. What could they do differently?

They could benefit from the involvement of a third party-not necessarily a formal third party, but someone who knows people on both sides. Then the person can try to produce a package that they can recommend to both sides. Neither side is committed to it absolutely in advance, but they also paint the alternative that without any hockey games it's bad for everybody. They all want to say at the end that we reached a good and fair settlement. That usually means somebody to facilitate the negotiation by going back and forth between the parties.

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Interview conducted in June, 2005 by Rick Goossen, Executive Editor

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