

Getting to Yes

Chapter 1 – “Don’t bargain over position”

Best alternative to negotiation agreements (BATNA) – the absolute gist of Getting To Yes
Dealing with negotiations based on principles rather than position

This short chapter (worth reading) discusses the importance of achieving resolutions whose outcomes are all of the following:

- Wise
- Efficient
- Amicable

If you choose to bargain over position, you will be unable to be wise, efficient, nor amicable.

Unwise

As more attention is paid to clarifying your own position and defending it against attack, you lose sight of the underlying concerns/interests of all parties. Agreements become less likely. Final agreements that may be achieved are done out of mechanically splitting the differences between the two positions... rather than an agreement which was carefully crafted with both parties’ interests in mind. The result is less satisfactory to each side than it could have been – this is unwise.

Inefficient

Bargaining over position certainly requires a lot of time. This of course stalls settlements because you stubbornly hold to a position that you deceive the other side to be your true values and you slowly make tiny concessions. Both sides participate in this little minuet, which is extremely time consuming – this is inefficient.

Endangers an ongoing relationship

Bargaining over position becomes a contest of will. There is a lot of power and force involved and hard feelings could arise – this is not amicable.

The chapter also discusses:

- The more parties involved the harder it is to reach an agreement
- Being nice is not a solution – if you’re soft you’ll lose your shirt
- Consciously or not you are negotiating procedural rules with each move that you make (regardless if substance is involved or not)

Alternative to bargaining using positions =

“Negotiation on the merits” or “Principled Negotiation”

(A straightforward method, which can be used almost always)

Allows you (your negotiations) to be wise, efficient, and amicable

- **People** – separate the people from the problem
- **Interests** – focus on basic interests not positions
- **Mutually Satisfying Options** – Brainstorm lots of possibilities before choosing what to do
- **Criteria** – Insist that the result be based on some objective/fair standard

Getting to Yes

Chapter 2: Separate the People from the Problem

Negotiators are people first

- You are dealing with human beings, not abstract representatives of the other side.
- This human aspect of negotiation can be either helpful or disastrous.
- Deal with others sensitively as human beings prone to human reactions.

Every negotiator has two kinds of interests: in the substance and in the relationship

- A negotiator wants to reach an agreement that satisfies his substantive interests, but also has an interest in his relationship with the other side.
 - A. The relationship tends to become entangled with the problem
 - The parties' relationship tends to become entangled with their discussions of substance.
 - We are likely to treat people and problem as one. Egos tend to become involved in substantive positions.
 - People draw unfounded inferences (from substantive comments), which they then treat as facts about that person's intentions and attitudes toward them.
 - B. Positional bargaining puts relationship and substance in conflict
 - Framing a negotiation as a contest of will over positions aggravates the entangling process.
 - Positional bargaining deals with a negotiator's interests both in substance and in a good relationship by trading one off against the other.

Separate the relationship from the substance; deal directly with the people problem

- Dealing with a substantive problem and maintaining a good working relationship need not be conflicting goals if both parties are prepared to treat each separately on its own merits.
- Deal with people problems directly; do not try to solve them with substantive concessions.
- The various people problems all fall into one of three basic categories: perception, emotion, and communication.

Perception

- Differences are defined by the difference between your thinking and theirs. The difference itself exists because it exists in their thinking.
 - A. Put yourself in their shoes
 - People tend to focus on the facts that confirm their prior perceptions and to disregard/misinterpret those that call their perceptions into question.
 - See the situation as the other side sees it by withholding judgment.
 - B. Don't deduce their intentions from your fears
 - People tend to assume that whatever they fear, the other side intends to do.
 - People tend to put the worst interpretation on what the other side says or does.
 - C. Don't blame them for your problem
 - Assessing blame firmly entangles the people with the problem.
 - When you talk about the problem, separate the symptoms from the person with whom you are talking.
 - D. Discuss each other's perceptions

- Deal with differing perceptions by making them explicit and discussing them with the other side.
- E. Look for opportunities to act inconsistently with their perceptions
 - The best way to change their perceptions is to send them a message different from what they expect.
- F. Give them a stake in the outcome by making sure they participate in the process
 - If you want the other side to accept a disagreeable conclusion, it is crucial that you involve them in the process of reaching that conclusion.
 - Agreement becomes much easier if both parties feel ownership of the ideas.
 - Get them involved early in the process and ask their advice.
- G. Face-saving: Make your proposals consistent with their values
 - Face saving reflects a person's need to reconcile the stand he takes in a negotiation with his principles, past words, and deeds.
 - Sometimes in a negotiation, people will continue to hold out simply because they want to avoid the feeling or the appearance of backing down to the other side.

Emotion

- In a negotiation, feelings may be more important than talk.
- A. First recognize and understand emotions, theirs and yours
 - They too have personal feelings, fears, hopes, and dreams.
 - Ask yourself what is producing the emotions.
- B. Make emotions explicit and acknowledge them as legitimate
 - Talk with the people on the other side about their emotions and your emotions.
 - Making your feelings and theirs an explicit focus of discussion will not only underscore the seriousness of the problem, it will also make the negotiations less reactive and more proactive. People will become more likely to work on the problem.
- C. Allow the other side to let off steam
 - Help them release unexpressed negative feelings; it may make it easier to talk rationally later.
- D. Don't react to emotional outbursts
 - Releasing emotions can be risky if it leads to an emotional reaction. If not controlled, it can result in a violent quarrel.
- E. Use symbolic gestures
 - Acts that would produce a constructive emotional impact on one side often involve little or no cost to the other (e.g. an apology, a note of sympathy, shaking hands, delivering a present, etc).

Communication

- Negotiation is a process of communicating back and forth for the purpose of reaching a joint decision.
- There are three big problems in communications:
 - Negotiators may not be talking to each other in a way as to be understood.
 - Even if you are talking clearly to them, they may not be hearing you.
 - What one says, the other may misinterpret.
- The following things (A-D) can be done to address these three problems.
- A. Listen actively and acknowledge what is being said
 - Active listening improves not only what you hear, but also what they say.

- Understanding is not agreeing. One can understand, but still disagree with what the other side is saying.
- B. Speak to be understood
 - You can improve the result by establishing private and confidential means of communicating and also by limiting the size of the group meeting.
- C. Speak about yourself, not about them
 - It is more persuasive to describe a problem in terms of its impact on you than in terms of what they did or why. A statement about you is difficult to challenge.
- D. Speak for a purpose
 - Sometimes the problem is not too little communication, but too much.
 - When anger and misperception are high, some thoughts are best left unsaid.
 - Before making a significant statement, know what you want to communicate or find out, and know what purpose this information will serve.

Prevention works best

- The best time for handling people problems is before they become people problems.
 - A. Build a working relationship
 - The time to develop a relationship with the other side is before the negotiation begins.
 - Knowing the other side personally helps – less difficulty understanding where they are coming from, provides a foundation to trust, familiar communication routines, etc.
 - B. Face the problem, not the people
 - A more effective way for the parties to think of themselves is as partners in a side-by-side search for a fair agreement, advantageous to each.

Getting to Yes

Chapter 3 – Focus on Interests, Not Positions

For a wise solution reconcile interests, not positions

Interests define the problem – The basic problem in a negotiation lies not in conflicting positions, but in the conflict between each side's needs, desires, concerns and fears

Desires and concerns are interests – interests motivate people; your position is something you have decided upon, your interests are what caused you to decide

For every interest, there usually exists several positions that could satisfy it; therefore, you should not compromise positions, but rather look at the interest and try to find alternative positions that will meet both your interests and the other parties' interests

Behind opposed positions lie shared and compatible interests, as well as conflicting ones

We tend to assume that because the other side's position conflicts with ours, then their interests also conflict. However, a close examination usually reveals that there are many more shared interests than there are opposed interests

How do you identify interests?

Ask why?

Put yourself in their shoes. Examine the positions they take and ask yourself why. The answer is probably one of their interests

You can also ask the opposing party why he/she is taking a particular position –be sure to make it clear that you are asking not for a justification of the position, but for an understanding of the needs, hopes, fears, or desires that it serves

Ask why not? Think about their choice

To uncover interests first identify the basic decision that those on the other side probably see you asking them for, and then ask yourself why they have not made that decision. What interests of theirs stand in the way?

In constructing the other side's currently perceived choice the first question to ask is whose decision do I want to affect. The next decision is what decision people on the other side now see you asking them to make (If you have no idea what they think they are being called on to do, they may not either.)

Realize that each side has multiple interests

In almost every negotiation each side will have many interests, not just one. You will have not only a strong interest in affecting any agreement you reach, but also one in effecting an agreement.

A common error in diagnosing a negotiation is to assume that each person on the other side has the same interests. (This is almost never the case) – It is easy to think of negotiation as a two-person, two-sided affair, but do not neglect the presence of others because their interests are also important. Therefore, to understand the negotiator's interests means to understand the variety of somewhat differing interests that he/she needs to take into account.

The most powerful interests are basic human needs

In searching for the basic interests behind a declared position, look at the interests that motivate all people.

Basic human needs include:

security
economic well-being
a sense of belonging
recognition
control over one's life

Make a list

To sort out the various interests of each side, write them down as they occur to you. It will help you remember them, improve the quality of your assessment as you learn new information, and may stimulate ideas for how to meet them.

Talking about interests – the purpose of a negotiation is to serve your interests. This increases when you communicate them. If you want the other side to take your interests into account, then explain to them what those interests are.

Make your interests come alive

Be specific – concrete details not only make your description credible, they add impact.

As long as you do not seem to imply that the other side's interests are unimportant or illegitimate, you can afford to take a strong stance in setting forth the seriousness of your concerns.

To impress the other side with your interests, you have to establish the legitimacy of those interests. Do not attack the other side, but convince them that they may feel the same way you do if they were in your shoes

Acknowledge their interests as part of the problem

People listen better if they feel that you have understood them. They think that those who understand them are intelligent and sympathetic.

Therefore, if you want the other side to appreciate your interests, begin by demonstrating that you appreciate theirs.

In addition to demonstrating that you have understood their interests, it helps to acknowledge that their interests are part of the overall problem that you are trying to solve – easier when there are shared interests

Put the problem before your answer

If you want someone to listen and understand your reasoning, give your interests and reasoning first and your conclusions or proposals later.

Look forward, not back

You will satisfy your interests better if you talk about where you would like to go rather than where you have come from. (Instead of arguing what has happened in the past, talk about what you want to happen in the future.)

Be concrete but flexible

To convert your interests into concrete options, ask yourself "If tomorrow the other side agrees to go along with me, what do I now think I would like them to go along with?" To keep your flexibility, treat each option you formulate as simply illustrative.

Having thought about your interests, you should go into a meeting not only with one or more specific options that would meet your legitimate interests, but also with an open mind.

Be hard on the problem, soft on the people

It is OK to be hard on the problem. It may not be wise to commit yourself to a position, but it is wise to commit yourself to your interests. The wisest solutions are produced only by strongly advocating your interests. When two people are fighting for their interests, they will often stimulate each other's creativity in thinking up advantageous solutions.

Do not let your desire to be conciliatory stop you from doing justice to your problem. (Don't cave in just to be peaceful)

Attack the problem without blaming the people. If your opponent feels personally threatened by an attack on the problem, they may grow defensive and cease to listen. Listen to the other side with respect, show them courtesy, express your appreciation for their time and effort, and emphasize your concern with meeting their basic needs. Show them you are attacking the problem, not them.

Give positive support to the human beings on the other side equal in strength to the vigor with which you emphasize the problem. (The idea is to create cognitive dissonance – this forces the opponent to dissociate himself from the problem in order to join you in doing something about it)

Fighting hard on the substantive issues increases the pressure for an effective solution, while giving support tends to improve your relationship and likelihood of reaching an agreement.

Getting to Yes

Chapter 4 – Inventing Options for Mutual Gain

→ Skill at inventing options is one of the most useful assets a negotiator can have

I. Four major obstacles that inhibit the inventing of an abundance of options

Premature judgment

- Inventing options does not come naturally
- Judgment hinders imagination
- Under the pressure of a forthcoming negotiation, your critical sense is likely to be sharper

Searching for the single answer

- Encourages premature closure
- By looking for the single best answer, you are short-circuiting a wiser decision-making process in which you select from a large number of possible answers

The assumption of a fixed pie

- Avoid looking at the negotiation as an either/or, zero-sum situation

Thinking that “solving their problem is their problem”

- To reach an agreement that appeals to your self-interest, you need to develop a solution which also appeals to the self-interest of the other

II. Prescription to invent creative options (options invite other options)

A. Separate the act of inventing options from the act of judging them

- Invent first, decide later
- An effective way to separate inventing from deciding is to arrange a brainstorming session with colleagues → postpone all criticism and evaluation of ideas
 - *Before brainstorming*
 1. Define your purpose
 2. Choose a few participants (five to eight)
 3. Change the environment
 4. Design an informal atmosphere
 5. Choose a facilitator
 - *During brainstorming*
 1. Seat the participants side by side facing the problem (physical reinforces the psychological)
 2. Clarify the ground rules, including the no-criticism rule
 3. Brainstorm
 4. Record the ideas in full view
 - *After Brainstorming*
 1. Star the most promising ideas
 2. Invent improvements for promising ideas
 3. Set up a time to evaluate ideas and decide
 - Might want to consider brainstorming with the other side
 - Produces ideas that take into account the interests of all those involved, of creating a climate of joint problem-solving, and of educating each side about the concerns of the other
 - To reduce the risk of appearing committed to any one idea, advance at least two alternatives at the same time

B. Broaden the options on the table rather than looking for a single answer

- Inventing options involves four types of thinking, the circle chart (p. 68)
 1. Problem (the factual situation you dislike)

2. Analysis (diagnose an existing situation in general terms)
 3. Approaches (given your diagnoses, what are some general approaches)
 4. Action Ideas (specific and feasible suggestions to put one of the general approaches into action)
- Look through the eyes of different experts (can do a circle chart for each one)
 - Invent agreements of different strengths (list on p. 70)
 - Think of weaker versions you might want to have on hand in case a sought-for agreement proves beyond reach (ex: if a permanent agreement is not possible, perhaps a provisional agreement is)
 - Change the scope of a proposed agreement
 - Fractionate the problem into smaller, more manageable units (agreements may be partial, involve fewer parties, cover only selected subject matters, etc.)

C. Search for mutual gains

- Identify shared interests
 1. Shared interests lie latent in every negotiation (may not be immediately obvious)
 2. Shared interests are opportunities → make them explicit and formulate them as shared goals
 3. Stressing your shared interests can make the negotiation smoother and more amicable
- Dovetail differing interests
 - The differences can lead to solutions (ugli orange exercise), find items of low cost to you and high benefit to them, and vice versa
 - May have different interests (list on p.74), beliefs, values placed on time, forecast, or differences in aversion to risk
- Ask for their preferences
 - invent several options all equally acceptable to you and ask the other side which they prefer, modify it and present it again with other options, continue until you can find no more joint gains

D. Invent ways of making the decisions easy

- Your success depends on the other side making a decision you want, so confront them with a choice that is as painless as possible
- *Whose shoes* - focus on one person, consider the problem from their point of view
- *What decision* – focus your attention on the content of the decision itself, determine what type of decision you want, develop legitimate solutions, look for a decision or statement that the other side may have made in a similar situation
- *Making threats is not enough*
 - Concentrate on making offers; be aware of consequences from their point of view; how might they be criticized
 - Develop a “yesable proposition”
 - Draft a proposal that can be answered realistically with the single word “yes”

Getting to Yes

Chapter 5 – Insist on Using Objective Criteria

Even if each side focuses on interests, sometimes these interests will conflict

Deciding on the basis of will is costly

- Typically negotiators use positional bargaining to define what is acceptable (“here is my best offer”) - agreement is reached because one side is more stubborn/generous
- A better approach is to base the decision on independent criteria and procedures

The case for using objective criteria

Principled negotiation produces wise agreements amicably and efficiently

- The more you use standards of fairness, efficiency, or science, the more likely that the final solution will be wise and fair.
- Easier to work with people when using criteria (not trying to outwit each other)
- More time efficient to use criteria (not defending/attacking subsequent positions)
- When there is more than one side in the negotiation, objective standards are critical

Developing objective criteria (deciding what’s fair)

Fair standards

- There is usually more than one acceptable objective criteria for agreement
- The ultimate standard must be independent of each sides will or influence
- Possible standards include: market value, precedent, science, efficiency, costs, legal/moral/professional standard, equal treatment, tradition, reciprocity, etc.

Fair procedures

- When fair standards are difficult to determine, use fair procedures
- Possible procedures include: one side cuts - one side chooses, first agreeing on procedures and then deciding, taking turns, drawing lots, using a mediator, etc.

Negotiating with objective criteria (how to use objective criteria in negotiations)

- When negotiating, remember the three basic points outlined below

Frame issues as a joint search for objective criteria

- Ask “What’s your theory?” – how did the other side arrive at their figure
- Agree first on principles – if they suggest using the market price as the standard, agree on how you will define market price before discussing terms

Reason and be open to reason

- Make the negotiation a joint search for fairness based on *any* objective criteria
- Do not insist that your objective criteria are the best – be open to other criteria
- If you can’t agree on criteria, split the difference, test the criteria, or use a mediator

Never yield to pressure (i.e. a bribe, threat, appeal to trust, refusal to budge, etc.)

- In every case, invite the other party to state their reasoning, and suggest a criteria
- When negotiating based on objective criteria, there is no reason to yield – you will usually prevail on questions of process/substance – your position is easy to defend
- If the other side will not budge, the negotiation is over – decide if you can live with the unjustified position or go to your best alternative (BATNA)

NOTE: It may help to read through the example negotiation on page 92–94 (“Its company policy”) for an example of negotiating using objective criteria

Getting to Yes

Chapter 6: What If They Are More Power?

(Develop Your BATNA – Best Alternative To a Negotiated Agreement)

- **Two objectives:**

1. Not make any agreement you should reject. (Protecting yourself)
2. Make the most of your assets.

- **Protecting yourself**

- ◆ The costs of using a bottom line.
 - Benefit of using a bottom line.
 1. Resist pressure and temptations of the moment.
 2. If more than one person on your side, reduces the risk that one union will be split off.
 3. Limit the authority of agent.
 - Costs of using a bottom line.
 1. Limits your ability to benefit from what you learn during negotiation.
 2. Inhibits imagination. If using one variable such as price as bottom line, it is possible to be too rigid. Negotiation involves more than one variable.
 3. Arbitrarily selected figure maybe too high or too low.
- ◆ Know your BATNA
 - BATNA: Best Alternative To a Negotiated Agreement.
 - It is the standard against which any proposed agreement should be measured.
 - It is flexible, thus it permits the exploration of imaginative solutions.
- ◆ The insecurity of an unknown BATNA
 - Too optimistic to assume that you have lots of other choices.
 - Psychological mistake to see your alternatives in the aggregate although you can choose only one if fail to reach agreement.
 - Too pessimistic, thus too committed to reaching agreement.
- ◆ Formulate a trip wire
 - It is better agreement than BATNA.
 - It provides early warning that the possible agreement is unattractive.
 - It provides you with some margin to reserve, some room to move.

- **Making the most of your assets**

- ◆ The better your BATNA, the greater your power
 - Negotiation power depends primarily upon how attractive to each is the option of not reaching agreement.
- ◆ Develop your BATNA
 - BATNA should be vigorously explored.
 - Ways to generating BATNA
 1. Inventing a list of possible actions.
 2. Improving some into practical alternatives
 3. Selecting the best alternative.
 - Should you disclose your BATNA?
 1. If it is extremely attractive, do it.
 2. If your opponent thinks you lack a good alternative, do it.
- ◆ Consider the other side's BATNA
 - The more you learn of their alternatives, the better you prepare.
 - If they appear to overestimate their BATNA, try to lower their expectation.

- If their BATNA is better than the negotiation agreement you can consent, try to impair the BATNA.
- If both sides have attractive BATNAs, the best outcome is to reach no agreement.
- ◆ When the other side is powerful
 - Negotiating on the merits
 - Developing your BATNA

Getting to Yes

Chapter 7 – What If They Won't Play (Use Negotiation Jujitsu)

What if you are trying to negotiate with someone and they have unequivocal terms? What if they attack you instead of the problem? How do you turn the person away from position and turn them to merits? Principle negotiation has already been discussed in a previous chapter. Negotiation jujitsu and use of a third party (one-text procedure) are discussed in this chapter.

There are three basic approaches to focusing the person's attention on the merits.

1) Focus on what *you* can do - You can concentrate on the merits and not the position. This approach assumes success in talking about interests, options, and criteria.

2) Focus on what *they* may do - Use this when the first strategy doesn't work and they are still using positional bargaining. This approach counters the positional bargaining to focus them back to the merits. Also called negotiation jujitsu.

3) Focus on the use of a third party – Use when principled negotiation or negotiation jujitsu does not work. A trained third party will work to focus the discussion on interests, options, and criteria. The most effective tool the third party can use in the *one-text mediation* procedure.

Negotiation Jujitsu

If the other side takes a firm position, you may be tempted to reject or criticize it. This may create a useless back and forth cycle of attack and defense. To prevent this, don't push back. Don't counterattack. "Sidestep the attack and deflect it against the problem." As with the Oriental arts of judo and jujitsu, the strength of the opponent is used to your advantage. Instead of resisting the other party, use the attack to explore interests to invent "options for mutual gain."

How to use negotiation jujitsu.

The attack will typically consist of three maneuvers: asserting their position forcefully, attacking your ideas, and attacking you.

Don't attack their position, look behind it.

When the other side establishes a firm position, do not accept or reject the position.

- Treat the position as one possible option.
- Look for the interests behind the other side's position.
- Think of ways to improve it.
- Assume every position they take is a genuine attempt to address the basic concerns of each side.
- Ask how the position addresses the problem at hand
- Seek out and discuss the principles underlying the other side's position.

Don't defend your ideas, invite criticism and advice.

Rather than losing time criticizing and resisting the other side's criticism. Invite it.

- Ask what's wrong with your idea.
- Examine the negative judgment to find out their underlying interests.
- Improve and rework your idea from their point of view.
- Ask for the other side's advice.

- Ask what would they do if they were in your position.

Recast and attack on you as an attack on the problem.

Resist the temptation to defend yourself when the other side attacks you personally. (frequently happens)

- Allow the other side to let off steam.
- Listen and show that you understand what they are saying.
- When they are finished, cast the attack against the problem.

Ask questions and pause.

When engaged in negotiation jujitsu, use two tools:

1) Use questions instead of statements because statements generate resistance and questions generate answers.

- Questions allow the other side to get their point across and let you understand them.
- Questions educate, not criticize.

2) Silence is the best weapon. “People tend to feel uncomfortable with silence, particularly if they have doubts about the merits of the something they have said.”

- Silence creates the impression of a stalemate which the other side will feel
- suggestion.
- Ask questions then pause.
- Don't let them off the hook by going right on with another question.
- Some of the most effective negotiating will take place when you are not talking.

One Text Procedure

This is the procedure involving the use of a third party. Use this approach when the effort to shift the game from positional bargaining to principled negotiation has failed.

A mediator can:

- separate the people from the problem.
- direct the discussion to interests and options.
- suggest some impartial basis for resolving the differences.
- Reduce the number of decisions required to reach an agreement
- Help parties know what they will get when they do decide.

A natural third party is one whose interests on the issue lie more in effecting an agreement than in affecting the particular terms.

Summary for the one-text procedure:

- great for two-part negotiations involving a third party
- almost essential for large multilateral negotiations
- does not need someone's consent to start using
- simple - prepare a draft and ask for criticism

The end of the chapter has a real-life example utilizing negotiation skills when a party is reluctant to engage in principled negotiation. Some key highlights are listed below.

1. The essence of principled negotiation lies in the remaining open to persuasion by objective facts and principles.

2. Make yourself open to correction and persuasion. You can convince the other side to be open to the principles and objective facts you suggest only if you show yourself open to the ones they suggest.
3. Giving personal support to the person on the other side is crucial to separating the people from the problem. Praise and support imply that the person will continue to deserve them.
4. Turnbull takes a stand on principle and announces his intention to stick to it. He must be persuaded on the basis of principle.
5. When Mrs. Jones attacks Turnbull, he doesn't lose his temper. He uses negotiation jujitsu to bring the negotiation back to merits. He does not attack back, but takes responsibility for her misperceptions.
6. He continually directs the discussion back to principle.
7. A good negotiator rarely makes an important decision on the spot. A little time a distance help separate the people from the problem.
8. A good negotiator comes to the table with a credible reason in his/her pocket for leaving when he wants.
9. A negotiator should not indicate passivity or inability to make a decision.
10. Present all your reasons first before offering a proposal. If principles come after wards, they appear not as the objective criteria, but as justifications for an arbitrary position.

Getting to Yes

Chapter 8 – What If They Use Dirty Tricks?

- Tricky bargaining- use of lies, psychological abuse, pressure (sometimes unethical or illegal) to win substantive gain in unprincipled contest of will
 - 2 standard responses: 1) Put up with it or in hope that if given what they want, the other side will not persist (used most often); 2) Respond in kind
 - Tactics designed to be one sided, the other side is not to know the tactics, or to tolerate them knowingly
 - Often one proposals about negotiating *procedure*
- Engage in principled negotiation about the process to counter these tactics

I. How do you negotiate about the rules of the game?

- A. Recognize the tactic
 - 1. Bring it up with the other side
 - 2. Raise the issue explicitly
 - 3. Question the tactic's legitimacy and desirability- negotiate over it
- B. Separate the people from the problem
 - 1. Don't personally attack
 - a. It may be harder for them to abandon the tactic if they get defensive
 - b. They may be left with residual anger if you attack
 - 2. Question the tactic, not personal integrity
 - a. It will be easier to reform the process than the person
 - b. Don't succumb to the urge to teach a lesson
- C. Focus on interests, not positions
- D. Invent options for mutual gain
 - 1. Suggest alternative games to play
- E. Insist on objective criteria
 - 1. Be hard on principle
 - 2. Try out reciprocity
 - 3. Frame the principle behind the tactic as a proposed rule for the game
- D. As a last resort, turn to your Best Alternative To a Negotiated Agreement

II. Some Common Tricky Tactics

- A. Deliberate Deception
 - 1. Phony facts
 - a. Don't trust someone unless you have good reason- make negotiations proceed independent of trust
 - b. Verify factual assertions
- B. Ambiguous Authority
 - 1. Other side may lead you to believe they have ability to compromise when they don't
 - a. They may take it to a 2nd party after you've already agreed- called taking a "second bite at the apple"
 - 2. Don't assume the other side has full authority
 - a. Ask how much authority they have, and seek a higher authority to negotiate with if they answer ambiguously
 - 3. Insist on reciprocity
- C. Dubious Intentions
 - 1. If you think they may not hold up their end- build a guarantee into the negotiations

D. Less Than Full Disclosure Is Not the Same as Deception

2. Good faith negotiation does not require full disclosure
 - a. Withholding some information may create possibility to behave with full candor about information that is not being disclosed

III. Psychological Warfare

- Designed to make you feel uncomfortable so that you will have a subconscious desire to end negotiations as soon as possible
 - A. Stressful Situations
 1. It can be advantageous to accept offer to meet on other side's turf
 - a. Puts them at ease and makes them more receptive
 - b. Makes it easier to walk out
 2. Be aware of where other side decides to hold negotiations, and what effects that choice may have
 3. Be aware that the stress you feel in a given setting may be intentional
 - a. May be designed to get you to end early, making many concessions
 - b. State prejudicial intentions you sense in physical surroundings
 - B. Personal Attacks
 1. Can be verbal or nonverbal- to undermine your confidence or attack your status
 - a. Can include making you wait, implying that you're ignorant, refusing to listen, lack of eye contact
 3. Recognize the tactic to nullify its effect
 - C. The Good Guy/ Bad Guy Routine
 1. Sometimes involves 2 people on the same side staging a quarrel
 - D. Threats
 1. Commonly used, usually builds up determination of the receiving side
 2. Perceived as deliberate coercion
 3. Good negotiators can communicate the same information in other ways
 - a. Suggest consequences will occur independently from those you could choose to bring about
 - b. Try framing as a warning (not subject to counter threats)
 4. Interrupt communication of a threat to undermine its effectiveness
 - a. Ignore it- take it as unauthorized, spoken in haste, etc.
 - b. Make it risky to communicate them (consequences)
 - c. Be principled- "my reputation is built on not responding to threats"

IV. Positional Pressure Tactics

- Designed to structure the situation so that only one side can effectively make concessions
 - A. Refusal to Negotiate- "I'll see you in court."
 1. Recognize as a possible negotiation ploy- attempt to use their entry into negotiation as a bargaining chip to obtain concession
 2. Talk about their refusal to negotiate- directly or through 3rd parties
 - a. Don't attack, find out interests in not negotiating
 - b. Insist on using principles- Is this the way they want to play?
 - B. Extreme Demands- designed to lower your expectations
 1. May believe that if they start out high that parties will ultimately end up splitting the difference
 2. Making an extreme demand undermines credibility
 3. Bring their attention to the tactic- ask for principled explanation
 - C. Escalating Demands
 1. May raise 1 demand for every concession made
 2. May reopen already settled issues
 3. When you recognize it, call it to their attention, take a break, and consider whether to continue negotiating

4. Insist on principle
- D. Lock-In Tactics- extreme commitment tactic designed to make it impossible to yield
1. You strengthen your bargaining position by weakening your control over the situation
 2. Gamble- call their bluff
 3. Interpret the communication to weaken it
 4. Rely on principle- de-emphasize the commitment so the other side can back down gracefully
- E. Hardhearted Partner
1. Recognize the tactic, rely on principle, and ask to speak to the partner
- F. A Calculated Delay
1. Create a fading opportunity for the other side when they employ this tactic
 2. Look for objective conditions to establish deadlines
- G. "Take It or Leave It"
1. Nothing wrong with presenting a firm choice- but it isn't negotiating
 2. Consider ignoring the ultimatum- provide a face-saving way for them to get out of it
- V. Don't Be a Victim**
- A. Establish the rules of the game
 - B. Be prepared to fight dirty bargaining tactics
 - C. It is easier to defend principle than an illegitimate tactic