

INTEREST-BASED NEGOTIATION - EXERCISE

RECALLING A TEAM DISCUSSION (Adapted from Roger Schwarz)

Bring to mind a meeting where you and your team members needed to agree on a new strategy.

- What was your opinion about the best way to go? What were other opinions?
- How did the discussion/negotiation go?
- How did others who do not share your opinion react when you presented your views? What did you do?

If you had a chance to go back to the meeting and do things differently, how would you address the conversation?

- Assure the team that you value their ideas and that the team's strength comes from its diverse views?
- Ask for team members' views first and share your views last?
- Offer to leave because you sense that some people aren't speaking their minds?
- Tell the team as a group what you've noticed and why you're raising the topic, and ask them what is leading them not to share their different views?
- Talk one-on-one to a team member that you trust and ask what's going on?
- ...?

Which assumptions and values are underlying each of the above strategies? Which actions might lead to an increased trust/understanding between team members and reduced defensiveness?

RECALLING PAST NEGOTIATIONS

Bring to mind two negotiations or discussions where you and another person had two different positions and were attempting to reach an agreement (one that went well and another that went bad). What factors led to each outcome? Share with a partner.

In pairs, brief your partner about the situation that went bad. Describe the issue in details, inform him about both positions and the outcome of your negotiations. Ask your partner to play the role of the other party with whom you were negotiating. Instead of replaying the old scenario and firmly stating both of your positions experiment with the following:

- Ask him for his understanding of the situation (How does he see the issue? What is his story?)
- Listen for his position (what is he asking for? what does he want?)
- Understand the underlying interests / concerns using inquiry (why is it important?)
- Summarize the issues and interests
- Brainstorm solutions that satisfy the interests
- Choose one that meets an agreed-upon set of criteria: workable, impactful, acceptable

ADDITIONAL EXERCISES

It helps to connect back to active listening techniques (Practices section)

INTEREST-BASED NEGOTIATION - INPUT

INTRODUCTION

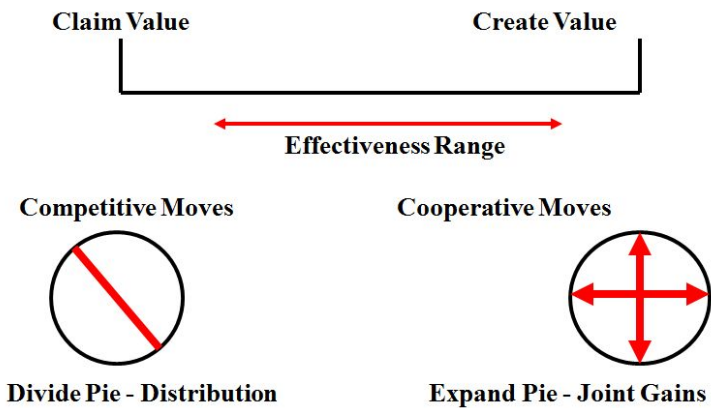
Traditional problem solving is often an ineffective debate between what you want and what I want. Following heated negotiations and entrenched positions, the usual outcome is frustration, strained relationships, and often a persistence of the conflict. After some time, one of the party or both may withdraw, or compromise. This trap is usually a result of leaders' mindsets about how they are supposed to act in a negotiation or when interacting with others. The underlying mental process that each party follows rests on their perceived problems, needs, solutions, own evaluation of the situation, their selection of data and facts. To resolve a lot of the difficult negotiations they are involved in, leaders need to step back, look at the situation through fresh eyes and come up with new solutions that didn't seem to exist before.

MAIN IDEAS

A new way of approaching problems and negotiation

During conflicts and negotiation, competitive modes (and compromising moves to some extent) focus more on dividing /distributing value between the parties involved, whereas avoiding and accommodating responses are about yielding to others' concerns while dismissing one's own needs.

As highlighted in the graphic, the effectiveness of conflict-management responses depends on finding the right ratio of "Claiming Value" versus "Creating Value". A more cooperative approach to conflict and negotiation strives to find creative ways to expand the range of value and ensure higher mutual gains.



Cooperative approaches to negotiation necessitate a change in mindset and attitudes that ensure that both parties reach a mutually satisfying solution. We are including below three helpful directions:

- Introducing the interest-based approach to problem solving and negotiation as an alternative to typical approaches
- Exploring two different mindsets (unilateral control mindset and the mutual learning mindset) and their impact on negotiation
- Providing key insights to prepare for negotiations and manage the emotional side of the process

We invite you to deepen in the subject by exploring the resources section and including other models that you are familiar with.

Interest-based approach to problem solving (IBPS)

Interest-based problem solving (IBPS) is a collaborative approach to solving problems, that enables people in an ongoing partnership to negotiate differences amicably without giving in. The process accounts for the multiple objectives that parties want to satisfy when resolving their differences, namely:

- the desire to resolve the issue in a way that meets individuals needs,
- but most importantly the desire to reach a solution in a way that saves the relationship or ideally improves it.

Any successful negotiation process would therefore need to:

- produce a wise agreement
- be efficient (in terms of time, cost, energy,...)
- improve—or at least not damage—the relationship between parties.

Four keys words are at the heart of the interest-based process:

- The **issue** is the problem or subject area to be addressed
 - Often people have different views and perspective on the problem
- A **position** is a proposed solution.
 - What you decided you want in a particular situation
 - Your position describes mainly what you want but not necessarily why you want it.
- The **interest** is the underlying need, motivation or concern in a situation which caused you to take a particular position or come to the solution that you are proposing.
 - The interest describes what is important to you. It describes what needs to be addressed in order to reach a solution.
 - Usually there is more than one way to satisfy it.
- An **option** is a potential way to address the issue, in whole or in part.

Under the interest-based approach, both parties ideally start with a discussion of interests. They talk about what is important to them without making proposals or stating what they want the final outcome to be. This approach opens the door to collaborative problem solving, as opposed to competition or compromise.

Typical Problem Solving	Interest-Based Problem Solving
<p>Efforts are focused on:</p> <ul style="list-style-type: none"> • Stating problems too generally • Trying to find a solution and reach an agreement before there is agreement on the definition of the problem • Solving the wrong problem • Framing the problem so it can't be solved • Debating what each person wants • Focusing on dividing/distributing value 	<p>In this process, instead of debating what each person wants, both parties:</p> <ul style="list-style-type: none"> • share their own perspective of the problem and/or story, • share their own needs/interests • develop options and possible solutions • evaluate the alternatives • finally commit and plan a mutually satisfactory solution

Identifying deep motivations and needs is not always easy and invites both parties to engage in an “interest-inquiry”.

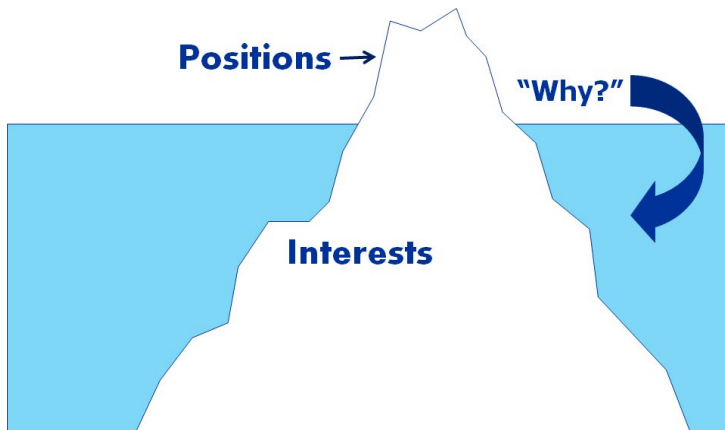
Once one of the parties firmly states his position, or even suggests a position masquerading as an interest (“I don’t want to work in the open space anymore. It is very important that I have my own office!”), to shift the conversation towards an interest-based process it helps to take the time to listen and ask questions to find out the real interests, concerns and motivations underlying each position. Once the interest has been clarified, both parties can move to evaluating options.

Start from the other party’s stated position:

- What will having that (the position) do for you?
- How will things change if you get what you want?
- What are you most concerned about?

Once the needs and motivations have been understood, build on what has been shared to evaluate the options. Start from the other party’s interest:

- What is a good way of addressing the interest ?
- Will that option satisfy all of the needs/interests?



Principles and ground rules for win-win interest-based negotiations

from *Getting to Yes*, Fisher and Ury, Penguin Books, 1981.

- Focus on ISSUES – not personalities: separate the people from the problem
- Focus on INTERESTS – not positions
- Focus on OPTIONS – not proposals: generate a variety of possibilities before deciding what to do
- Evaluate options in terms of MUTUAL GAINS – not personal gains: Insist that the options be judged against an agreed-upon standard (workable, impactful, acceptable,...)
- Make decision based on CONSENSUS – not competition or coercion

Helpful questions to ask during the process:

- What is the issue? How do you understand this situation?
- What is your perspective? How did this problem arise?
- What are our interests, hopes and concerns?
- What are potential options and solutions?
- What are the best options that help us satisfy mutual interests?
- How will outcomes be affected by our decision?
- How and when will we follow up on the solution?

Unilateral control mindset and mutual learning mindset

From: Roger Schwartz, 2002 *The Skilled Facilitator* based on Argyris and Schön, 1974

When leaders attempt to make others do what they want them to do, often under the belief that they are acting in the best interests of the organization, they are operating from a *unilateral control mindset (UCM)*.

These patterns of negotiating with others may be so deeply ingrained that leaders aren't able to see the heart of the problem or the implications of it. This way of operating often leads to situations where the leader and his team feel stuck without understanding why or knowing how to break this cycle of frustration and mistrust.

Under the unilateral control mindset, the leader is often driven by assumptions and beliefs that reinforce this way of work:

- "I can either win or lose. I need to win."
- "I need to make strong assertions and give selective responses."
- "I should not disclose too much information."
- "I should keep my feelings and emotions to myself."
- "I should use what the other side says against them."

In contrast, when leaders operate from a mutual learning mindset (MLM), they achieve their goals by **learning from and with others**.

- In this way of operating, leaders are curious, open to being influenced and seeking at the same time to advocate for their points of views, while remembering that they are one part of the picture.
- They realize that each member of their team has a piece of the puzzle, and their common task, along with team members, is to jointly put the puzzle together.
- This mindset enable teams to work together by capitalizing on their strengths, talents and knowledge for the benefit of the whole.

Refer to the handout for a summarized table on the assumptions, strategies and consequences of both models (UCM and MLM).

Preparing Your Emotional Strategy

From: Alison Wood Brooks (*An emotional strategy for negotiations, Harvard Business Review 2015*)

Preparation is key in negotiations. While it is crucial to consider objective elements such as: who are the parties involved? what are the issues at stake? what are the positions on the table? what is my best alternative if we don't reach a deal?, it is equally important to plan an emotional strategy for each stage of the negotiation.

Given that negotiating is also an interpersonal process that involves at least one other party (and often many more), learning to anticipate and manage the emotional responses of others is also crucial.

Helpful questions to ask yourself:

- How do I feel?
- Should I express my emotions?
- How might others across the table feel?
- Are they likely to hide or express their emotions?
- Would it be helpful to bring in a third party to run the negotiation on my behalf?

Insights to keep in mind:

- While it's normal to feel anxious and excited, try to avoid expressing anxious feelings.
- Try to reframe potential stress as excitement. Expressing forward-looking excitement may help build rapport.
- Practice helps you sharpen your negotiating skills (role plays, simulations, deal-making exercises,...)
- Building rapport before, during, and after a negotiation can reduce the odds that the other party will become angry.
- In emotionally charged situations, consider having an expert (e.g a lawyer) to negotiate on your behalf.

Preparing your emotional strategy during the meeting

Helpful questions to ask yourself:

- What things could happen that would make me feel angry?
- What things might I do that would trigger my counterparts to feel angry?
- What might they do or ask that would make me feel anxious?

Insights to keep in mind:

- From the start, frame the negotiation cooperatively (seek a win-win solution)
- Be careful about expressing anger; it may extract concessions but harm the long-term relationship.
- Anger biases perceptions and makes impasses more likely. Avoid angering your counterparts; they are likely to walk away.
- Preparing answers to tough questions is critical for staying calm in the moment.

Your emotional strategy when the deal is over

Helpful questions to ask yourself:

- What are the possible outcomes of the negotiation? What do I hope to achieve? What do I expect to achieve?
- How would those outcomes make me feel?
- Should I express those feelings? To whom?
- How are my counterparts likely to feel about the possible outcomes?

Insights to keep in mind:

- To reduce disappointment, outline clear aspirations and expectations and adjust them throughout the negotiation.
- When you feel pleased about an outcome, it may be wise to keep it to yourself.
- The best negotiators create value for everyone, claiming the lion's share for themselves but making their counterparts feel that they, too, won.

Managing emotional reactions during negotiation

In addition to the above, Alison Wood Brooks suggest some emotional intelligence strategies for managing your counterpart's emotional responses during a negotiation meeting:

1. Be observant

Tune in to the other party's body language, tone of voice and choice of words to perceive how they are feeling.

Beware of the other side's cultural tendencies, as well as your own. However, don't make assumptions without asking to verify them. Explore them (using intellect and EQ) and notice discrepancies.

When verbal and nonverbal cues don't align, ask pointed questions based on your perceptions. This will help others understand your perspective and make it difficult for them to lie.

- "You are saying that this option works for you, but you seem uneasy. Is there anything that is bothering you?"
- "You say you're angry, but you seem somewhat relaxed. Are you truly upset about something? Or are you trying to intimidate me?"

Notice when you detect loss of trust (sentences getting shorter, defensive postures...) and take action immediately when you see it

Restate and reframe. Name the problem. Call it as you see it (descriptively but not judgmentally). Ask what info is needed to get back on track.

- "Is there something I said or did that made the tone shift?"
- "Our problem seems to be ...What would you suggest we take as a step to move forward?"
- "We seem to be stuck. What should I do different to get passed this impasse"

2. React to your counterpart's emotions accordingly:

- Injecting humor or empathetic reassurance can ease anxiety or defensiveness and change the tone of the conversation.
- Setting gentle boundaries or expressing well-placed anger can counterbalance overconfidence or control
- Oppositional anger often leads to an impasse. Both parties are better off when discussions do not involve hostility.

3. Proceed slowly and deliberately

- Research shows that when a negotiation unfolds or concludes too quickly, participants tend to feel disappointed by the outcomes.
- One of the most effective ways to manage loaded emotions in negotiations is to recognize that the negotiation process often unfold over many meetings. Patience and persistence are often desirable when negotiating whereas the urge to conclude discussions and exit quickly is counterproductive. Accepting that things do not have to unfold all at once can bring a sense of relief to the situation.
- When tensions appear (even if you feel they are unwarranted) it may be wise to ask for a short break to regroup. Resisting the urge to escalate is not always easy. However, a break often changes everything. People need distance and a night sleep. "In heated negotiations, hitting the pause button can be the smartest play".

EXPECTED LEARNINGS AND OUTCOMES

1. Understand the assumptions undergirding the unilateral control culture vs the mutual learning culture
2. Understand and Practice Interest-Based Approach to Negotiation and Problem-Solving
3. Providing basic awareness and skills to negotiate in a more strategic way

INTEREST-BASED NEGOTIATION - HANDOUT

Unilateral control model (UCM) and Mutual Learning Model (MLM)

From: Roger Schwartz, 2002 The Skilled Facilitator based on Argyris and Schön, 1974

UNILATERAL CONTROL MODEL

CORE VALUES AND ASSUMPTIONS

- Achieve my goal through unilateral control
- Win, don't lose
- Minimize the expression of negative feelings
- Act rationally
- I understand the situation; those who see it differently do not
- I am right and those who disagree with me are wrong
- I have pure motives and those who disagree with me have questionable motives
- My feelings are justified

STRATEGIES

- Advocate for my position
- Keep my reasoning private
- Don't ask others about their reasoning
- Ease in... rather than being upfront about my agenda
- Save face and protect myself

CONSEQUENCES

- Misunderstanding, conflict, defensiveness
- Mistrust
- Self-fulfilling, Self-sealing processes
- Limited learning
- Reduced quality of work-life

MUTUAL LEARNING MODEL

CORE VALUES AND ASSUMPTIONS

- Curiosity. Asking questions to learn. Everything that is shared is valid information.
- I have some information and others have other information
- Each of us may see things that others do not
- Transparency. Sharing what I'm thinking about and the assumptions underlying my thinking.
- The courage to make an informed choice (moving towards undiscussable issues rather than diffusing or avoiding them)
- Internal commitment
- Compassion (suspending judgment)
- Differences are opportunities for healthy conflict
- People are trying to act with integrity, given their situation

STRATEGIES

- Test assumptions and inferences
- Share all relevant information
- Use specific examples and agree on important words
- Explain reasoning and intent
- Focus on interests, not intentions
- Combine advocacy and inquiry
- Jointly design the approach
- Discuss the undiscussables
- Use decision-making styles that generate the commitment needed

CONSEQUENCES

- Increased understanding, reduced conflict and defensiveness
- Increased trust
- Fewer self-fulfilling, self-sealing processes
- Increased learning
- Increased effectiveness
- Increased quality of work-life

INTEREST-BASED NEGOTIATION - RESOURCES

GENERAL LEADERSHIP RESOURCES

Title	Author	Publisher	Year	Link
The walk from No to Yes	William Uri	TED Talk	2010	Link
Interest-Based Negotiation	Neil Katz & Kevin McNulty		1995	Link
Shifting from Unilateral Control to Mutual Learning	Fred Kofman	Axialent	2010	Link
How Unilateral Control Undermines Team Results and Relationships	Roger Schwarz	Roger Schwarz & Associates, Inc.		Link
An emotional strategy for negotiations	Alison Wood Brooks	Harvard Business Review	2015	Link
The Impact of Anxiety and Emotions on Negotiations: How to Avoid Misjudgment in Negotiation Scenarios	Program on Negotiation (PON) Staff	Harvard Law School	2018	Link
HBR guide to negotiating	Jeff Weiss	Harvard Business Review	2016	Link
Five Fundamentals of Negotiation from Great Negotiator Tommy Koh	Program on Negotiation (PON) Staff	Harvard Law School	2018	Link
How to Remain Detached Yet Fully Engaged in Negotiations: Tips for Business Negotiators	Program on Negotiation (PON) Staff	Harvard Law School	2018	Link
Power in Negotiation and Self-Fulfilling Prophecies	Program on Negotiation (PON) Staff	Harvard Law School	2018	Link
Reservation Point in Negotiation: Reach Negotiated Agreements by Asking the Right Questions	Program on Negotiation (PON) Staff	Harvard Law School	2018	Link

QUOTES

- “An unconscious, gentle process whereby people who want to be loving attempt to be so by telling little white lies, by withholding some of the truth about themselves and their feelings in order to avoid conflict. Pseudocommunity is conflict-avoiding; true community is conflict-resolving”. Scott Peck
- “If men would consider not so much wherein they differ, as wherein they agree, there would be far less of uncharitableness and angry feeling in the world.” Joseph Addison
- “Conflict is good in a negotiation process... it's the clash of two ideas, which then, all being well, produces a third idea”. Luke Roberts
- “... research shows that feeling or looking anxious results in suboptimal negotiation outcomes.” Alison Wood Brooks
- “... people who express anxiety are more likely to be taken advantage of in a negotiation, especially if the other party senses their distress.” Alison Wood Brooks
- “Be considerate: Don't let your excitement make your counterpart feel that he lost.” Alison Wood Brooks
- “Angry negotiators are less accurate than neutral negotiators both in recalling their own interests and in judging other parties' interests.” Alison Wood Brooks
- “Skilled negotiators use another technique to minimize the odds of regret: the ‘post-settlement settlement.’ This strategy recognizes that tension often dissipates when there's a deal on the table that makes everyone happy, and sometimes the best negotiating happens after the tension has been released.” Alison Wood Brooks
- “Bringing anger to a negotiation is like throwing a bomb into the process.”
– Alison Wood Brooks
- “Perhaps the most effective way to deal with anger in negotiations is to recognize that many negotiations don't unfold all at once but take place over multiple meetings. So if tensions are flaring, ask for a break, cool off, and regroup. This isn't easy when you're angry, because your fight-or-flight response urges you to escalate, not pull back. Resist that urge and give the anger time to dissipate. In heated negotiations, hitting the pause button can be the smartest play.” – Alison Wood Brooks