

NEGOTIATION

About the Author



Himanshu Rai is a Professor at the Indian Institute of Management, Lucknow. Prior to this, he has been the Dean of MISB Bocconi (India Campus of Bocconi, Milan), Professor at SDA Bocconi School of Management, Milan, Italy, and a faculty member at XLRI Jamshedpur, India. An alumnus of the Indian Institute of Management, Ahmedabad, Prof Rai's core areas include negotiation, leadership, and ethics. He frequently conducts training programs and workshops for executives as well as bureaucrats around the world.

His profile includes a stint of over eight years at Tata Steel, India, where he played a pivotal role in developing quality systems for his department and communication policy for the company. It was there only that he found his passion—trekking in the Himalayas, which in turn led him to have a clear vision of what he wanted to do in his life. He wished to help people become aware of their own selves, choices and opportunities that life presents them with, and realize their potential to the fullest. He sincerely believes in the power of academics that leads to the change that people aspire to bring about in the society.

Prof Rai has trained over 20,000 professionals, both in the private as well as in the government sector. He has provided strategic consultancy to the Government of India, and in particular, has audited programs sponsored by the Planning Commission of India. He also provides strategic consultancy to the state governments in areas of restructuring, strategic HR management, and employee development. An expert in interpersonal negotiation, he provides consultancy in negotiation to individuals and organizations.

He has published several papers and his current areas of research include negotiation, cross-cultural issues, management and religion, and spirituality. A connoisseur of Sanskrit literature, he has also written about and given discourses on Indian and Western philosophy, which he avidly studies. His research always has a strong underpinning of philosophy and its elements. He is a recipient of the coveted NTSE scholarship and Infosys Fellowship. He was also awarded as the Best Professor in HRM by a leading publishing house last year.

Prof Rai looks to yoga as a means to balance the body, mind and spirit. He has also introduced his students to the basic tenets of this ancient Indian discipline through various workshops. He considers The Himalayas his spiritual abode and is passionate about mountaineering and trekking. He treks up the Garhwal Himalayas annually, also having led several expeditions up to a height of 20,000 feet. He has explored most of the treks in this vast area and has scaled Everest Base Camp, Rudragaira, Kala Patthar, Nagakarsang, Khatling and Chandrashila peaks.

An avid quizzier, Prof Rai has conducted over a hundred quiz shows across the country and has had a delightful stint in dramatics with many plays to his credit, both as an actor and a director. He also juggles a keen interest in reading and collecting books, and has a strong passion for music. For more on him, visit his website www.himanshurai.com; and his latest TEDx talk is available on <https://www.youtube.com/watch?v=Pkn0u1aXS1o>

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Dedicated to

Bertie

My pet baby, friend, philosopher and guide

Preface

Negotiation is one of the most prevalent human processes in the world. Think of the situation when you are talking to a new company about a job offer, haggling with the roadside vendor for vegetables, or figuring out a relationship, they are all negotiation. Even when you are trying to convince yourself not to eat that last piece of chocolate, its negotiation. It is a natural behavior seen among animals and birds as well! Without negotiation, sustained mature interaction between two or more people would be impossible, whether it is a couple, a family, or a country.

This is also true, or more importantly crucial, when it comes to business. Negotiation in business is imperative across industries, companies, functions and heirarchy. From the biggest business deals or battles between corporate giants to small firms fighting for a tender, negotiation occurs in all aspects of business life.

While there are many theories and approaches to negotiation, one need not look too far to find some of the best instances of it put to practical use. The *Mahabharata*, one of the two epics of ancient India, famed for its layered intricacies and subtexts dealing with interpersonal relations and conflicts, gives us many excellent examples of negotiation strategy and tactics used in various ways. It is a great source of knowledge on this subject, and has been used in this book in the form of text and research on negotiating ability, and case studies to go along with each chapter.

Each chapter of this book gives information about the different elements of negotiation approach and application. Every chapter consists of the main theory and text, case studies, at least one of which is based on the epic, questions for discussion, exercises and activities to test your information, and multiple-choice questions, all of which will give you well-rounded knowledge of the topic covered in the chapter. A unique aspect of the book is the set of exhibits, some of which cover complex negotiations like ransom negotiation, negotiating with terrorists, etc.

The book begins with the foundation of negotiation. **Chapter 1** opens with conflict and its management, covering the elements of negotiation. **Chapter 2** discusses about negotiating ability and its various dimensions, and how to develop this ability. Negotiating style comes next, in **Chapter 3**, with a detailed look at different styles of negotiation and developing them effectively. **Chapter 4** is about the negotiation process, its steps and stages, goals, strategy and planning for negotiation. **Chapter 5** discusses communication in negotiation. This leads

to a detailed chapter, i.e. **Chapter 6**, on negotiation strategy and tactics, including bargaining and its two main types, power in negotiation, as well as counter-tactics. **Chapter 7** deals with the barriers in negotiation, impasse, and ways to overcome them. From here we move to **Chapter 8** on closing the negotiation deal and the various elements it involves, such as contracts, templates and renegotiation. **Chapter 9** is about negotiating using a third party, and the various techniques and approaches they employ for successful resolution. **Chapter 10** discusses the influence of various factors on negotiation, the primary ones being culture and gender. The final chapter, **Chapter 11**, talks about personality and negotiation, the influence of personal power, values and ethics, and how to use one's personality efficiently in diverse negotiating situations.

Thus, the book covers negotiation theory and practical application in detail, giving a thorough overview of the numerous dynamics involved in the process. It will allow the reader to negotiate better in various situations, with people having a range of personality traits, under different amounts of pressure, and at all levels of decision-making and problem solving. It will enable you to work with your own team as well as with the opposing team for your benefit, and ultimately for the overall benefit of the individuals involved. It will also give the competitive advantage one needs to lead a successful career and personal life based on tact, conflict resolution and an enhanced understanding of human behavior.

Happy Negotiating!

HIMANSHU RAI

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I have been fortunate to receive help and encouragement from several individuals and institutions during the course of writing this book. Foremost of them, I am indebted to Zalak Bhavsar who encouraged me to write the book in the first place and gave me the much needed start. I can never thank her enough for what she has done for me. My deepest thanks for the constant support provided by Anuradha Mehta, who helped me collate the material, draw up cases, and do the preliminary editing. Special thanks to Samriddhi Dubey and Mit Vachhrajani for helping me with the chapter-end exercises, and Smriti Nandakumar and Sharath Kumar for helping me with writing the discussion cases.

My professors at IIM Ahmedabad have been instrumental in helping me learn the basics of management in general, and negotiation in particular. Foremost among them are Professors Jerome Joseph, Indira Parikh, M. M. Monippally, Manjari Singh, Anil Gupta, Rajeev Sharma, and Asha Kaul, who helped me give shape to my understanding of negotiation as well as to my academic value system. Further, I would like to thank all my professors who taught me during the course of my stay at IIM Ahmedabad. It was an experience I will cherish for the rest of my life.

My colleagues at IIM Lucknow, XLRI Jamshedpur, MISB Bocconi, Mumbai and SDA Bocconi School of Management, Milan, have always been supportive of my academic endeavours; in particular, I would like to thank Prof Franz Wohlgezogen, who gave me invaluable suggestions both in terms of theory and pedagogy for this book. My students at these institutions and the participants in my training programs from the government of India and corporates all over the world have helped me hone my negotiation skills and provided material for writing the book. In particular, I would like to thank the management and participants at the Lal Bahadur Shastri National Academy of Administration (LBSNAA), Mussoorie, especially Mr Rajeev Kapoor and Tejveer Singh, for their constant support and excellent feedbacks on my journey in negotiation training.

It is the love and affection of my parents, Rajendra Rai and Dr Asha Rani Rai, and my brother, Dr Peeyoosh Rai, that has stood me in good stead when the going got tough at times.

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My journey so far has been very rewarding and I have met several people who have taught me lessons in life and helped shape me and my value system. I thank everyone who has touched my life in one way or the other, giving me the strength and perseverance to do what I love to do.

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Foundations of Negotiation

Learning Objectives

After studying this chapter, you will be able to

- Define a conflict
- Understand the relationship between conflict and negotiation
- Describe the fundamentals of negotiation
- Outline the three determinants of negotiation skills

MAKING OF A CONFLICT

Aarti started out at a mid-sized communications firm as a trainee in the Communications and Public Relations department. After a year, she was offered a permanent position as an Assistant Communications Manager. After four more years of service, she was promoted to Senior Communications Manager, which gave her a greater role in making decisions and directing a team of assistants, while also working with other senior members to collectively handle various big projects. In three years, she saw some of her peers advance to the position of Chief Communications Manager, while there were indications that a promotion in her case was a long way to go. Work appraisals reflected that her peer group acknowledged her support and hard work but when it came to asserting herself or lobbying for processes that would benefit her and her department, she was not so effective—something her superiors were not happy about—compared to her juniors. It was also found that she expended a great deal of energy trying to micro-manage her assistants, who at times saw her as ‘weak’.

These realizations were made worse during meetings with her peers and seniors, where she failed to back up her points when faced with conflicting opinions or arguments, which resulted in others taking advantage of the situation and usually leaving her with the least credit-worthy or unattractive part of a project. As a result, she began to stagnate. Her predicament made little sense to her, since professionally, her qualifications and experience were on par with those of some of her seniors. A change came in the form of a special deputation on an urgent project; the company wished to pitch for a project floated by a reputed international company. It meant devising a nation-wide strategy in less than a week to fulfill its multi-pronged communications agenda, which also involved measures to connect with stakeholders, product dealers, other middlemen and of course, consumers. Effectively, that meant Aarti would have to gather information, collate it, plan extensively and strategize, keeping various target groups in mind. The catch was that Aarti's company may or may not be awarded the contract, after all that hard work. Aarti's peers were not too interested in chasing a deal that was not only uncertain but also unlikely to fall into their hands, considering that many bigger firms were in the fray. They were simply not ready to be deputed to the project and lose the projects they currently controlled, although it was temporary.

Finally, Aarti was deputed to handle it and she submitted her proposals just hours before the deadline for the management review was up. They filed it with the prospective client without making any major changes to her copy and a week later, they discovered that Aarti's proposed strategy had won them the contract. For Aarti, this was a much-required wake-up call, which prompted her to ask herself some crucial questions on how this really came about. She realized that up until this project, she had acted out of fear of facing opinions that might contradict hers, questions and conflicts she always preferred to shy away from. She was always more comfortable working by herself, with her efforts paling in the stress of a highly competitive environment. Last but not the least, she realized that her interpersonal issues were an effect and not the cause of her intrapersonal issues that had remained unsolved for a long time. Once she accepted this, she put herself on the path to progress. She made it her short-term goal to separate people from their positions, and learned not to interpret difference of opinion as a personal dislike towards her. She focused on what she wanted to get out of a situation, and as a long-term goal, she decided she would look at more informal interactions with colleagues and others so as to be more at ease with people.

Can you imagine how many such opportunities we pass up in our lives, day in and day out—situations that offer us the potential to grow and to get to know ourselves better? And, all this happens because we do not see conflicts for what they are. Aarti fixed that issue and found an answer to the problems that perplexed her the most.

1.1 CONFLICT AND ITS MANAGEMENT

When the undesirable happens, or something desirable does not happen, what you are seeing is a conflict. Conflicts are inevitable. Whenever situations fall short of our expectations, or others' interests are incompatible with ours, the result is a conflict.

Philosophically, conflict can be defined as differences in and among individuals.

What is a conflict?

A conflict is defined as a fight, battle, struggle, or discord of action, feeling or effect, incompatibility or interference, with regard to an idea, desire, event or activity with another. Conflicts are known to hamper growth, creativity, and innovation by sapping energy, resources, and people's ability to work together.

Conflicts do not appear out of thin air. They evolve. A difference in opinion today might make way to an aggressive stance years later, just as resentment may give way to full-blown anger, and repression to breach of trust. Conflict is not merely a disagreement or a difference in opinion in the course of a conversation; conflict is a situation tending to impairment of a relationship, which stands to hurt both the parties involved at some point of time. Managers are specifically trained to watch out for and identify conflicts before they aggravate. A good manager must identify a conflict in the making. At times this is a challenge.

The term 'manager' is used in a broad sense here. It does not specifically refer to a white-collar employee in a multinational company. It refers to all those who must 'manage' certain situations in life so as to ensure they function smoothly. So this implies to all of us. The problems we face from time to time sometimes have a face, sometimes they don't. It is as much a conflict when your boss asks you to do overtime as when you have to find a cab to take you to work on the day there is a transport strike. You 'negotiated' with the choice of your best power suit over smart casuals to your Chairman's high-tea. Although these problems are not of the same kind, with dissimilar risks and results, you have to choose one alternative from many possibilities, considering your preferences, convenience, and abilities.

Conflicts can be resolved through several methods; with increasing psychological maturity, they are best resolved through negotiations.

While the situations might differ with every conflict, they do share some basic characteristics. That is, all conflicts have one or more shared traits. If you have an idea about the basic characteristics of a conflict, it would help you anticipate and respond to it in a timely, tactful manner.

1.1.1 Four Levels of Conflict

1. Intrapersonal
2. Interpersonal
3. Intragroup
4. Intergroup

Conflicts, as such, can occur on four different levels, namely: intrapersonal, interpersonal, intragroup, and intergroup. The latter three are relatively easier to spot, while intrapersonal conflict is one of the most commonly manifested aspect. *Apart from leading us to learn about ourselves and our own interests and priorities in life, intrapersonal conflicts and the way we deal with them affect the entire course of our lives.*

Intrapersonal conflicts have a huge socio-psychological impact, which may then spill over into interpersonal domain. And thus, understanding exactly where lies the conflict, i.e.,

in which domain does it originate, is imperative to solving it. Understanding and solving intrapersonal conflicts help us come to terms with our personality, attitude, and empowers us to work on our strengths and eradicating our weaknesses.

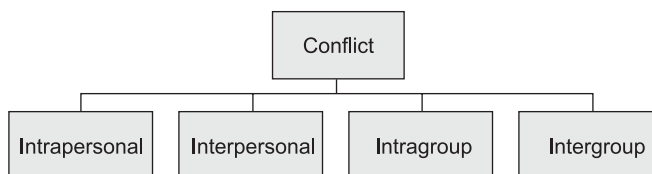


Figure 1.1 *Levels of conflict*

In the case mentioned earlier, Aarti learnt that her problem was not exactly a case of being ignored and unappreciated, as much as it was of herself being less confident, assertive and articulate. She realized that this was a result of taking disagreements personally and, thereby, fearing situations that had the potential of resulting in conflicts. Did this have a basis in her past, her background or her experiences? It is possible. But, once she understood this facet of her personality, she gained control, a sort of leverage, over her situation.

This is not to say that interpersonal, intragroup or intergroup conflicts do not impose on intrapersonal conflicts. They certainly do. But, our emphasis on intrapersonal aspect with regard to this particular case is justified due to the difficulty in isolating problems on this level and the amount of impact it has on our lives.

1.1.2 Characteristics of a Conflict

Imagine the origins of a conflict. There is something you want, that you don't have yet. And, if you do have some of it, you want more. While you do want this 'thing' earnestly, it might not be under your control and it might not be easy to get.

This 'thing' could be anything: a piece of rock, a gem, a house, a place; or immeasurable, intangible qualities such as freedom, trust, loyalty, respect, consolation, peace, solitude, power, reputation and so on. They could be under the control of someone else—a boss, teacher, spouse, friend, kin, family, government, or an inanimate entity—a particular system, institution, or even nature.

Sometimes, it could also be under our own control; for example, a resolution to increase monthly savings by 20 per cent on one hand, and on the other, the desire to indulge in extravagant holidays and branded apparel. Naturally, these two are locked in conflict. This conflict can be resolved by compromising on the branded items and lavish holidays, or by lowering the percentage of savings to 10 per cent instead and increasing it gradually. At the same time, the expenditure on holidays and apparel could be scaled down. This is how an internal conflict can be resolved.

Thus, essentially, a conflict engages at least two sides that are at odds with each other with regard to their requirements, goals, and capabilities. A solution would lie in the parties agreeing to readjust some or all of these three parameters, which may require some kind of

forfeiture from both the parties. This process of agreement is negotiation—one of the most effective ways to tackle a conflict.

Take a look at some of the definitions of negotiation:

“A form of interaction through which (parties)... try to arrange... a new combination of some of their common and conflicting interests.”

—Ilke, 1968, p. 117

“A process in which at least two parties with different needs and viewpoints try to reach an agreement on matters of mutual interest.”

—Adler, Graham, and

Gehrke, 1987, p. 413

Negotiation is a process of communication, whereby two or more parties come together and attempt to reach an agreement over one or more issues of conflict.

Negotiation is the key to conflict resolution when influence, authority, coercion, relationships such as friendship, kinship, as well as reciprocity, propriety, fail to produce the desired results due to certain roadblocks. Some of these roadblocks identified by Watkins (2001, p. 120) are given below:

The first step to resolve a conflict is to acknowledge that the conflict exists.

- *Loss of comfortable status quo*: If concessions given by people might result in the loss of their position by way of disruption of the status quo, they may be less amenable to being influenced.
- *Challenge to one's sense of competence*: People may be less inclined to grant concessions if they believe that it would reflect on their abilities as a sign of weakness or error of judgment.
- *Threats to self-defining values*: People place a lot of importance on their identities, a major part of which is their values. If anything happens to threaten these values, they may be less inclined to negotiate.
- *Negative consequences to allies*: People value their relationships, friendships, alliances with others and may be less open to granting concessions, which may harm these relationships.

1.1.3 Are All Conflicts Bad?

In the case described before, Aarti's biggest problem was that she backed away from questions, crosschecks, disagreements, disputes and differences of opinion. And this was because she regarded them to be synonymous with people's perception of her. She took it personally and it dented her confidence.

Things started looking up when she decided to look at these issues in an impersonal, distant manner. She told herself that when a person disagreed with her at work, it did not automatically mean that he/she did not like her personally. Even though they may eventually have to fight it out—either convincing the other party or her having to submit her stance—it was nothing personal. This made her feel confident that even if she lost an argument, or gave way to someone else's opinion once in a while, it did not mean that she lost her credibility

forever. As she began to understand this, she lost her fear of confrontation. She also started using humor to defuse contentious situations.

In short, she changed the way she looked at conflicts. Instead of seeing evil in conflicts, she started to perceive an opportunity to change the existing order towards a relationship that is more agreeable to herself and the other party. And, most of the times, she found this could be achieved without stepping on others' toes.

Conventionally, disputes, conflicts and disagreements are believed to be destructive, but researchers consider them as opportunities to create awareness about problems, bring about organizational change, provide better solutions and improve internal management (Pincus, 1986; Mishra and Dhar, 2002; Bendersky, 2003). *Putting it simply, no new step can be taken, nor can an improvement be made without encountering some conflict at the heart of any situation.*

1.1.4 Types of Conflicts

We have spoken about various levels of conflicts. As commonly seen, conflicts are mainly of three types:

1. Resource conflict

When two or more parties differ with one another over the use of limited resources, or disagree on their goals and objectives that might be clashing, a resource conflict arises. It may be said that it has more or less a material dimension to it.

2. Process conflict

When two or more parties disagree over how their objectives are achieved, or apply strategies that are incompatible with those of others, a process conflict arises.

3. Relationship conflict

When two or more parties have interpersonal difficulties arising from incompatible personalities, attitudes, or gaps in communication, or lack of trust or respect for one another, the result is a relationship conflict. While the other two are relatively easier to understand and solve, relationship conflict tends to challenge rationality in behaviors.

In resource and process conflicts, it is possible to make the involved parties look at the issue objectively and make them compromise. But that is not the case with relationship conflicts, in which the concerned parties may fail to look at issues open-mindedly, thus leading to deterioration of the situation. When people concentrate on their egos more than the persisting issue, they will fail to recognize the steps taken by the other side in their favor, and may indulge in aggressive behavior, withhold information, etc. In such cases, the best solution is to first bridge the gap in the relationship. If team members are engaged in an ongoing relationship conflict, it may be beneficial to speak to them individually before the next group meeting and ask them to stay focused on the task.

Resource conflict refers to a disagreement over the limited number or lack of resources.

But, just as conflicts are found on many levels, sometimes complex situations may arise due to a combination of various types of conflicts: X per cent of resource conflict, Y per cent of process conflict, and Z per cent of relationship conflict. At the same time, one conflict may lead to the other or aggravate the conflicts that already exist. To solve such a multi-dimensional conflict, it is required to identify the responsible components and understand which one is aggravating the others.

A real-life example of this scenario is the food security situation being witnessed all over the world today. Countries deficient in arable land, especially those in the Middle East and over-populated countries like China and India, are trying to gain control of vast stretches of land in the African continent, influencing the foreign and economic policies of those countries, not to mention the exploitation of their natural resources, often leading to conflicts. This is a resource conflict that has the potential to create a relationship conflict.

Process conflict refers to a disagreement over how the work gets done.

On the other hand, the use of unmanned drones by the US forces in strife-torn areas of Pakistan and Afghanistan, in their hunt for terrorists, has depleted the trust of the natives' on the ability of their own government to safeguard them. This has led to many violent attacks on the armed forces sent by the Western powers, and also citizens calling for non-cooperation on the international stage. Here, we can see a relationship conflict and process conflict working to aggravate each other.

Relationship conflict refers to a disagreement over interpersonal relationships and dynamics.

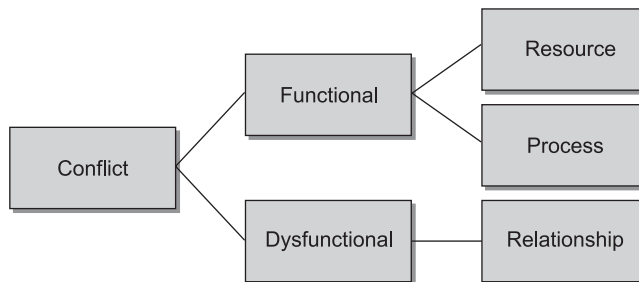


Figure 1.2 *Types of conflict*

1.1.5 General Characteristics of a Conflict Situation

With the understanding we have gained about conflicts per se, we can sum it all up by identifying the general characteristics of a conflict:

1. Struggle with desires

All conflicts imply a sense of struggle between desires and outcomes. Intrapersonal conflicts are specially dealt from a psychological viewpoint but in the other three types of conflicts, parties involved have certain values, desires, actions that are incompatible with those of the others.

2. Impact

Devoid of action or impact, a disagreement is not termed as a conflict. By impact, it means the gross manner in which your relationship with the other party is affected through either of your actions. It is not yet a conflict if words are not spoken, or if a misunderstanding is allowed to fester, without ever coming to expression within a relationship. When one party actively chooses to act in a way that alters the course of their relationship, it is an impact. When this impact is unfavorable to the other party, prompting it to react, it results in a conflict.

3. Power equation

A conflict will lay bare the power equations at work in a system. Those who are in positions of power will exert their influence to have an outcome they desire, which means that they will contribute more on how to respond to it. They will be the ones to decide whether or not to negotiate.

4. Conflict management is a skill

Conflict management is a very valuable skill that can be cultivated and honed. It needs to be proactively sought in order to minimize chaos and wastage of resources.

HOW TO RESOLVE A CONFLICT?

You have recently endured a serious blow regarding your three-bedroom flat on the fourth floor of your building that you have been living in for the last decade. You remember feeling so happy the day you bagged the deal on this prime location in one of the best-developed areas of your city, for a substantial sum of ₹ 38 lakh—a figure not wholly moderate then, but given the flat, looked like it was worth every penny of it and more.

Your flat boasts twice the built-up area than those below, with a lovely terrace, a larger dining space and storage. Moreover, unlike the other floors, which have four flats each, your floor has only two. And, the builder has retained the other flat for his daughter's family, who stay abroad. In effect, you have complete privacy. For the past year or so, newspapers have been abuzz with reports of land scams in well-developed localities such as yours, which have led to many government inquiries. The issue is that of builders exceeding Floor Space Index (FSI) specifications, i.e., more space is utilized to construct the buildings than what is legally permitted. In view of the scam having being prevalent for a long time, the government has instructed house-owners to pay the price difference within a certain time limit, in order to avoid facing action, which has in some cases led to the demolition of illegally constructed buildings.

You are worried because your building falls into that category, especially your floor—the topmost. A cursory examination of the building documents shows that the permission for building your floor was never taken by the builder. The current FSI value of your residential area, which is found to be 3.2, also violates the legally permitted value of 1.8. You suspect the builder of foul play since he never takes or returns your calls. When you did manage to speak with him with great difficulty, he dismissed your plea to he own up and try to set the papers right. When you insisted that he should take up the responsibility for the paperwork and pay 30 per cent of the settlement fees, he responded with sheer hostility.

Your neighbors and the members of your society are not interested in going beyond offering verbal support since the builder is known to have a brash and powerful reputation, besides the fact that he pays maintenance fees for the building, albeit through a trust. You realize that for the builder, the flat is just a throwaway. While others advise to take a 'wait and watch' approach, you, at the age of 52 years, cannot deal with uncertainty about the issue, since any government action stands to harm you most immediately and most intensely. Moreover, at the current rates demanded by the government, you simply cannot pay up the money you would have to, given your software consultant salary and your dependents, without piling on huge debts. Lastly, the problem itself will make it impossible for you to be able to sell your flat.

1.2 CONFLICT MANAGEMENT THROUGH NEGOTIATION

When we face a conflict, we are presented with a host of options to deal with it, as we can see in the case cited above. Conflict management comprises the choices we make and how we execute them. Usually, this can be determined by taking into account the three main factors at play:

1. *Situational factors*

Sometimes, our intention or desire finds itself in conflict with the situation we face. Let me cite a personal example: I was on a mountaineering expedition a couple of years ago, headed for a summit in the Garhwal Himalayas. I had with me a team of six people: two porters, a guide, and helpers and we had climbed high enough to reach the summit by the next morning. We stopped at a particular place for the night and pitched our tents, brought out our kitchen paraphernalia to prepare a meal. And a certain metal pin that is required to start our gas burners broke. We could not make do with the situation, could not afford to go hungry for the rest of our trek. So, one of the helpers went all the way down the mountain to get an extra pin. The next day, that one broke too. I did not have the heart to send a person all the way down again. That day, the day I was supposed to make it to the summit, we decided to abort the climb instead even though we were very close to the summit. Both the times, my response to the conflicting situation was different. Each time, I assessed the risks and the resources we would be required to spend in order to accomplish what we set out to do.

We see many such cases every day; we wish to go somewhere and at the last minute, our flight or train gets cancelled; if this is really important, we may arrange for private transport or even hitch-hike. If it is not, we might just stay back. Or, suppose some of the laws in your state are not conducive to the growth of your business, either you might decide to shift elsewhere or change the kind of business or industry you are involved with.

The good thing with situational factors is that they are impersonal. They do not impinge on our ego, our sense of preference and non-preference, and even if we find them unfair, it is unlikely that we take it personally. The flip side is that situational factors usually affect a large number of people, and one cannot bring a situation arising out of these factors to the negotiating table to talk about options. It cannot be made less severe or more favorable, just for you. Situational factors are also less likely or less amenable to change.

2. Interpersonal factors

A major share of study in the field of conflict management is devoted to this part. Interpersonal conflicts are delicate, with differing personalities, individual egos and agendas at play. There are many variables at work in such a situation. This area offers a huge range of options. *Every step taken in handling the conflict between two people or two parties or more goes to define the future course of their relationship.*

Let's say you have been involved in salary negotiations with your new employer and after due consultation, their HR manager has floated a figure that you are okay with, save for the break-up being offered. Your housing allowance is greater than your travel allowance, while your job entails a great deal of travelling, and you already own a house. Now, suppose, it is not important to you what the salary break-up is, and that you are happy with the aggregate. You accept the offer.

But, if the break-up does matter, you set out to try and make changes in the fine print.

Your requests during the last round of negotiations to that effect have not been met, with the HR manager citing company policy and people parity. You try to make him understand that by modifying his stand, the company has nothing to lose, financially or even tax-wise, but he is not willing to consider the argument on the basis of people parity. He sees himself as an authority figure and you sense that he likes to have the upper hand in any conversation. You figure that the situation isn't such that you would let go of the job offer just because you do not get the salary break-up of your choice. At the same time, you want to make sure you leave no stone unturned to get it. What do you do? You feel that the HR manager is likely to answer to hierarchy, so you explain your case to your boss and urge him to throw in a word for you, because a higher travel allowance would have a motivational value for you. As a last resort, you request them to shave off 25 per cent of your housing allowance and mark that as a vehicle allowance instead, for which there is a provision in the company policy. As you see in this case, at every step, somebody's ego is on the line, and somebody is going to have to take an extra step to ensure the other party is comfortable.

In such a situation, if your employer is keen on hiring you, or senses competition from others, they will take the extra step. Otherwise, they would refuse to negotiate. Your boss may not like the idea of having to go to his HR manager for the sake of someone who is not

yet an employee. Or, your HR manager may not appreciate your trying to get through to him through your boss. On your end, you accept the offer if you badly need the job, or push them to negotiate if you have better offers. At every turn, you must assess your action, the risk of taking it, and the intentions of the other party. *We must appreciate the complexity of such situations, and try to look for a solution that poses the least threat to any of the relationships at play.* Why?

Because, the use of force or the influence of your boss with the HR manager may get you your own way this time, but in future, as an employee of the same organization, he may be less than supportive of you, should you need his help later. It is also possible that your boss may doubt your people skills if you are unable to convince the HR manager about your own needs. At the worst, you may be perceived as a person who is not above the use of force, influence, or manipulation. In such situations, it is imperative that we tread carefully, sidestepping hurt and egos. The best way out is to sit together, with your would-be boss and the HR manager if possible, and honestly communicate your needs, explain your current situation, and also the motivation behind considering their offer. Also, understand their limitations as employees and be open to coming up with creative solutions suggested by the other side.

3. Intrapersonal factors

Intrapersonal factors pertaining to conflict management have come under focus largely in the area of behavioral psychology. We all deal with people on a daily basis but not all of us can say that we have great people skills, just as not all of us can, in bargaining parlance, 'sell a refrigerator to an Eskimo'. Have you ever been in a situation where you are oversubscribed to various insurance policies and investment plans and have no intention of getting another one and yet, some slick insurance agent manages to convince you of a plan that is 'perfect' for you? Or, you walk into a gift shop on your way to your friend's birthday party; you want to pick up something but the attendant's attitude is so cold and disinterested, making the process tedious and time-consuming, that you decide to pick up flowers instead. In both cases, the focus is on the person, and not the product, while the product is what you actually end up paying for.

It is the personality that seems to make the sale a success or a failure. Research has shown that in order to become a good negotiator, some personality traits are useful. These can be inherited and/or cultivated. Haven't we come across professionals who are successful at playing hardball at their place of work with unfulfilling personal or social lives? The same skills that help them thrive and succeed at work prove unproductive at home. Such a person may be extremely competitive, extremely result-oriented, with low regard for emotions and sentiments and sacrifice.

Or, the kind of businessmen who perform exceedingly well when making a sale to an outsider, but are mired in conflicts with their own business partners. Such people may be excellent at driving a hard bargain or even be able to collaborate well with clients, but when it comes to working with their own partners, they lose objectivity and start taking things personally, to the detriment of their business relationships. Thus, we see that personality traits render us predisposed to specific kinds of behaviors in particular situations. 'Situations simply trigger what comes naturally to each individual' (Gilkey and Greenhalgh, 1991).

It is also clear from these examples that in order to negotiate situations successfully, while one needs to learn and hone some skills, one may also have to unlearn some of them, depending upon the context and the timing of the conflict. That is to say, the over-achieving, hardball-player executive could be more effective as a family man if he/she learnt to take things easy, took time to listen to others' problems, and worked at putting others first. Similarly, the businessman who often lands into arguments with his partners may do well if he learns to take criticism constructively, to engage socially, to know more about their families, and to help them out in situations unrelated to business. We will learn more about this in later sections on negotiating styles, negotiating ability, and personal power in negotiations.

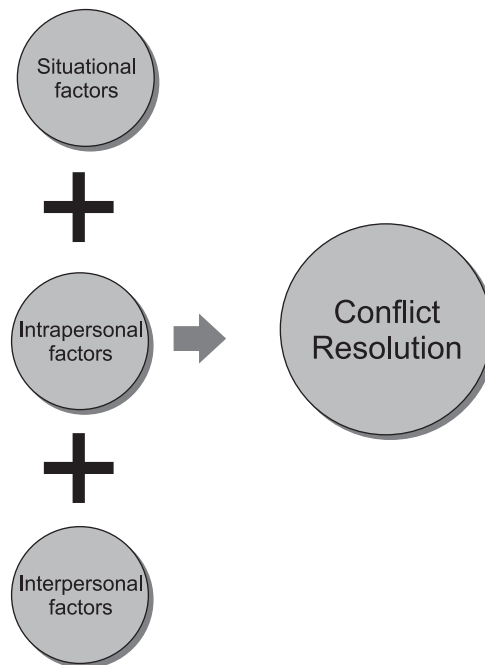


Figure 1.3 *Factors in conflict resolution*

1.2.1 Why Negotiate?

The previously discussed case about “How to resolve a conflict” amply shows that as a resident, you are in a ‘relationship’ that matches something a victim may have with the assailant. Cheated by your builder who withheld information, ignored and threatened when you confronted him, you consider legal recourse, but not without due trepidation. Also, he has funds to get better lawyers. As a middle-class common man with a decent salary and a family to support, you know the case will draw the life out of you, emotionally and financially, not to mention the time it takes to settle cases legally.

But, suppose you filed an application under the Right to Information Act, which clearly puts the builder and the department concerned in the wrong, and joined a group of people aggrieved with similar reasons and jointly hired a good lawyer to fight your case, would you not be in a much better position to fight the builder legally? Evidently, with this, neither have you become Don Corleone nor have you become a tax inspector. You have increased your leverage. And yet, this single fact has changed your relationship with your builder. Instead of a victim-assailant scenario, you find yourselves in a negotiating relationship. Reason: *Both of you have something to gain from a deal, failing which, either of you can inflict harm on the other, or suffer consequences that may not be desirable.*

This is also to say that negotiation will not happen unless and until both parties have something to lose if it did not take place, or that both parties have something to gain if they negotiate rather than if they did not.

1.2.2 What is Negotiation?

This cannot be reiterated often enough: we negotiate all through our lives, almost spontaneously. Everyone's share of situations like the one stated above varies in numbers and intensity, but the fact remains that we face conflicts every step of our way. In fact, most of them are so mundane, we simply 'deal with it' without even recognizing them as conflicts. Perhaps, every culture has its own way of understanding this, with popular wisdom exhorting us to 'take each day as it comes', 'never give up', 'every problem has a solution to it', and so on.

As we have learnt earlier of different levels of conflicts, negotiations also take place on various levels. Think of that ultimate struggle with conscience to resist buying a designer jacket on your credit card, knowing that eating out will be ruled out for a month. Or, the last argument you had with your parents over pocket money; or the one with a pesky neighbor you share the parking lot with; or a roommate who does not heed your toilet hygiene rules; or the one with your spouse about leaving your table-top mess alone.

Opting for a more universal theme, what about that day a persistent fellow motorist or a reckless biker vying for your space in the front forced you to cut three other cars in the next lane?

Ultimately, *either of you have something the other wants, which they cannot or do not want to share. Or, you are faced with a situation that you believe cannot fulfill what you desire or aim for.*

When it's the former, either you snatch or steal what you want or talk and discuss with the other party if some amicable and workable solution can be found. Since snatching or stealing aren't really options that completely rule out a rap by the civic authorities or retribution by the other party, talking and discussing—in effect, negotiating—is generally accepted as a better option. Thus, negotiation is a state of mind and an action aimed at managing relationships, dealing with disputes, working through formal contractual agreements, with a problem-solving approach rather than forcing your way through.

It gets more difficult when faced with a situation—rather than a particular person or a group—directly challenging your interests. Take, for instance, an investment in a particular stock that proved to be a poor judgment; the struggle in balancing ambition at work with responsibilities at home; or that between the desire to go opt for further studies and the desire

to hold on to that paycheck. Here, although there may not be another party to negotiate with, we do go about negotiating by looking at the pros and cons the situation brings with it.

1.2.3 Is Negotiation different from Bargaining?

Bargaining and negotiating are similar in some aspects. While bargaining generally means an attempt to strike a deal over a particular issue, usually price, negotiating applies to several other issues such as time, space, resources, and facilities, even personal attributes such as dignity, commitment, and prestige. Negotiation is used in a much broader context; it involves a problem-solving attitude, like being creative about making an agreement.

Essentially, though, all sorts of negotiations follow some degree of bargaining: give and take over a particular issue.

There are two basic ways in which this give and take is conducted:

- ***Distributive bargaining***: also known as fixed pie approach, or win/lose approach
- ***Integrative approach***: also known as enlarged pie approach, or win-win approach, or mutual gains bargain

It is important to understand these two basic approaches because these are the two approaches mainly used in some measure during negotiations, often in combination, depending upon the demands of the involved parties.

1. *Distributive bargaining*

In common parlance, when talking about commodities, shopping, and market, we talk about 'driving a hard bargain', 'no bargaining', 'what a bargain!'; here, we are usually referring to distributive bargaining. 'I win what you lose' is the mantra here, which is why, it is also referred to as win/lose bargaining. Here, parties are found to be in conflict over limited resources, and thus, whatever one party gains, it does so at the cost of the other party. Since there is a fixed quantity of the particular resource at the heart of the conflict, it is also termed as 'fixed pie' approach.

Common examples would be: a classic car purchase scenario, where the buyer and the seller attempt to reach an agreement over the price of a car; a divorce settlement where a couple divide their joint assets; legal heirs trying to sort out their inheritance after the death of their parents in the absence of a clear-cut will. Distributive bargaining is supposed to be competitive in nature and parties look out to maximize their gain at the expense of the other party.

Thus, a closer look at this aspect might reveal why distributive bargaining may not be the ideal approach for a long-term relationship. If one party has to bear the stress of loss and competition at the hands of another, it will opt out of the relationship as soon as it can afford to do so. But, for a short-term, one-time dealing, distributive approach can give maximum gains. For example, while shopping at tourist destinations, you are unlikely to find a lot of wriggle room for items such as mementos, or even the region's special handicrafts. This is because the vendors identify you as a tourist—a visitor, who is unlikely to become a regular customer—and thus, try to make the most out of that one sale.

According to Keltner (1994), distributive negotiation occurs when, “parties are clearly adversaries, victory is the goal, the parties demand concessions of each other as the condition of the relationship, they are hard on people, distrust others, dig in their positions, make threats (and) hide or mislead about the bottom line”.

2. Integrative bargaining

In conflicts that have several aspects, such as resources, relationship and time too, distributive approach would be counter-productive, as we discussed earlier. Manpower, etc., matter as much as the quality of relationship; here, parties are effectively interdependent on one another and traditional approaches of simple give-and-take do not work.

For example, you share an apartment with someone, both of you are working professionals, whose jobs demand long and often odd hours. Since you are both just starting out in your respective careers, neither can afford a private conveyance or even a full-time domestic help who can clean as well as cook. You both lead chaotic lives managing your life at home, long commutes to work, while not finding time to cook, exercise, or even spend a relaxing weekend at home.

Your part-time domestic help cleans and does the laundry, albeit often confused and making mistakes catering to both your demands separately, while most of your meals come straight out of a packet or a cheap restaurant around the corner. You find adulthood and responsibility is not exactly as liberating as it was cracked up to be. Slowly and gradually, you have started to notice a certain level of stonewalling, non-cooperation, and aggression building up in your limited exchanges with each other—another unpleasant aspect of your independent life.

Then, one fine day, when your roomie calls you out for a jog together, you share your concerns with each other, and realize that you have your struggles in common. You decide on a plan: jointly invest in a cheap, second-hand car. One week you take the job of driving and doing the dishes, while the other cooks and manages other household work with the domestic help. The next week, you switch. You jointly detail a food menu, to each other’s strengths, likings, and convenience. On the weekend, one pays all the bills, while the other takes care of the grocery shopping and budget.

Gradually, you see that you have private conveyance that makes your commutes safer, you both have more time on hand for activities you enjoy, and also have a clear handle on chores, food, and even the budget. The time you two spend together has brought you closer and your life in a new city is less lonely, less stressful. What we see here is a creative solution to a very common problem, not just among roommates, but even among modern-day couples. Yet, the solution was easy to find after one very important step was taken: communication between two parties in an open, honest, trustful manner. Here, even though the division of labor seems to have followed a classic distributive logic, the process itself is something else—two parties in conflict came together with an intention of solving the problems on both sides, instead of one party trying to figure out a way to make maximum gains at the cost of the other.

Thus, first distinction is the intention.

Second comes communication—usually in distributive bargain, one party tries to shred up or undervalue a price quoted by or a demand made by the opposite party, and vice versa. Other tactics would also include hiding crucial interest areas, miscommunicating one's needs, one's product value, etc. Thus, each party has to do a lot of work to basically figure out what the actual position of the opposite party is.

Thus, the third and final distinction is the relative lack of a competitive approach.

In integrative bargaining, this factor is much less. Here, it is in each party's interest to isolate the problem on the opposite side of the table, and for them to join on one side, looking for a solution that benefits them both. And, this can be achieved only if and when both parties are forthcoming about their goals, requirements, and limitations. And, this happens because the competitive approach is diminished. *Deutsch (1971) points out that parties' willingness to cooperate is influenced by the level of gain: When a relatively low payoff is associated with competitive behavior, it is less likely to be selected... (Relatively high payoffs) stimulate competitive behavior and attack which verifies and supports further competitive behavior.*

For example, you work in the marketing department of a small company, wherein, the entire department goes to a holiday destination with their families every year—a trip paid for in half by the company, while the rest is paid by you. But, for the executive with the highest sales tally, the trip is paid entirely by the company, flown in business class, and put up in executive suites. The two with the next best sales tally are rewarded with an all-expenses paid trip too, but with travel in economy class, and deluxe rooms, just like the rest. Here, the motivation to excel may be there, but imagine if the person with the highest sales tally were to be awarded an all-expenses paid trip to an exotic location abroad like Maldives, Bali or Cyprus with family, and accommodation in a luxury five-star hotel, while the rest head for a relatively simple beach holiday in Goa, what would be the state of competition in the department? Would you not say that the competition would intensify in the latter case?

This means that parties opt for a competitive approach (distributive) when they are convinced that gains made thus would be significantly higher than if they cooperated (integrative) towards finding a mutually beneficial solution.

1.3 NEGOTIATION AND TRUST

Any negotiation stands on two legs:

- Relationship
- Power or leverage

In this section, we take a look at how these concepts work with and impact each other in terms of a negotiation carried out to resolve a conflict.

1.3.1 Relationship

At the core of a large part of human psychology is the theory about pleasure and pain—increase pleasure, avoid pain. This applies to conflict situations too. A conflict is created when

one's pleasure stands to become the other's pain. If the former values the relationship with the latter in any way, or if the latter happens to have the potential to exact revenge later, they negotiate. If not, there's a winner and a loser, an assailant and a victim.

The word 'relationship' is significant here. When two parties interact, be it socially or professionally, it is termed as a relationship. A business is a relationship of trade. A family is a kinship. And, a relationship defines the roles we play within. A conflict is a sign of threat to either a role or the relationship as a whole. Greenhalgh and Chapman (1997) defined a relationship as, "The meaning assigned by two or more individuals to their connectedness or coexistence."

When an adolescent argues against the 10 o'clock curfew imposed by her parents, or when a firm makes a bid for a hostile takeover, forcing the top management and stakeholders into negotiations, we see a party not perfectly in acceptance of the relationship as it is, seeking a change more beneficial to itself. In other words, it is a lack of complete ease with the status quo. This is also where the word 'negotiation' is supposed to have originated from: *Negotium* in Latin, wherein 'neg' means 'not', and 'otium' means 'ease', which translates to not at ease or lack of ease.

So, what happens when a teen argues with her parents about the curfew? Parents question her lack of respect for their authority, affection, and their concerns over her safety. What takes a beating when a company makes a bid for a hostile takeover of another? —The trust between the two competitors. Two qualities are integral to a meaningful, healthy, and functional relationship: trust and respect.

In the executive context, let us use the term credibility to denote respect. This is because, here, credibility would encompass constructs of credentials, competency, track record, skills, ability, and thus, also respect. When a conflict occurs between two parties, either it occurs because one or both of these elements—trust and respect—were compromised, or because of a conflict, both of these elements take a beating. Effectively, if relationship issues are identified as the cause of a conflict, it may help to look at enhancing trust and credibility in order to find a solution. Let us look at these elements in greater detail.

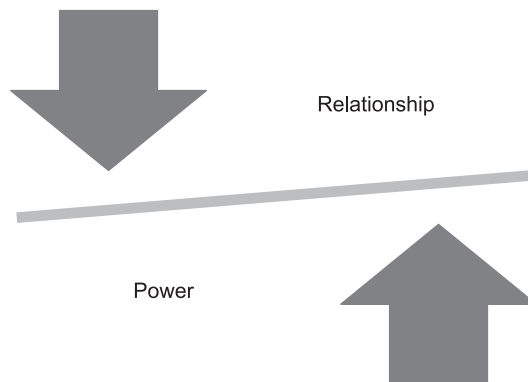


Figure 1.4 *Balancing elements of negotiation*

1.3.2 Value of Trust in a Relationship

When a conflict strikes, trust is the biggest factor in determining how the parties decide to tackle it. It is said that trust is the greatest form of respect.

Think about how difficult even the most mundane interactions would be if trust were to be lacking. You call a serviceman to come and fix your washing machine. He comes because he trusts you have a genuine complaint. You wait for him because you trust he will come to fix it. Similarly, you are buying groceries at your grocery store around the corner and realize you are short on cash. The owner lets you take the supplies on a small credit because he knows you, and trusts that you will pay it back.

Trust is an important element in resolving conflicts.

We feel safe in a crowd because we trust that should something happen to us, ‘somebody’ will care enough to take us to the hospital or call the police. It’s probably the same reason why we list our emergency contacts on speed dials on our phones. We spend a lot more on branded apparel because we trust that they are of a better quality. We talk about our biggest fears to our very closest people because we trust that they will not betray our confidence. To put it simply, trust is when someone says they would do something, we believe that they will do as they say. Trust simplifies most of our transactions and interactions with people, be it personal or professional.

The lack of trust may lead to a conflict, which may be further undermined by the conflict itself. At times, if trust is compromised by a conflict, it may soon take the form of a full-blown dispute. Therefore, during a conflict, greater the trust, greater the willingness of the two parties to respect each other and hear each other out. Lewicki and Wiethoff (2000) state that “a party which trusts another is likely to believe the other’s words and assume that the other will act out of good intentions, and probably will look for productive ways to solve a conflict.”

Parties look to non-contentious ways of problem solving—negotiation—mostly when they perceive the high costs of a dispute. In relationships that are perceived to have a future, the fear of escalation and spiraling consequences tend to tone down contentious tactics (Gottman, 1979; Richardson, 1967; Sillars, 1981). Also, reaching a settlement through negotiation helps in preventing disputes and maintaining a harmonious relationship among the disputants (Ren, Anumba, and Ugwu, 2003).

1.3.3 Types of Trust

Trust has, of late, emerged to be an important constituent that generates a lot of interest when studying relationships, since the development of technology and the huge impact it has on every aspect of our existence has also majorly impacted our relationships. So far, trust was believed to be a unidimensional construct. But recently, studies have shown that trust can be classified into different types (c.f. Lewicki and Bunker 1995, 1996; Lewicki and Weithoff, 2000).

Lewicki and Weithoff have shown that trust can be classified into two different types:

1. Calculus-based trust

This form of trust is about people doing what they say they will do. The belief is that people will do as they say because:

- They are rewarded for keeping their word and preserving their relationship with others, or
- They fear the consequences of not doing what they say.

Subsequent studies have proceeded to term the former as *knowledge-based trust*, and the latter as *deterrence-based trust*.

Let us look at the two in detail:

□ **Knowledge-based trust** This form of trust relies on predictability brought about by consistent behavior, and also information about the one that is to be trusted—the trustee. The trustor understands how the trustee operates, and thus, believes this to be consistent behavior.

For example, you trust the system of online banking, something you have been doing for years, while your parents, who are not computer-savvy, may not. This is because you know how the system of online banking works: you know what sort of safeguards to apply, you know whom to contact in case there is a problem, and you know how to handle which sort of problem.

This form of trust is seen especially in organizational relationships, business relationships, etc. Repeated interactions enforce a certain chain of behaviors, which then begins to be accepted as the system. Once formalized, trust in such systems increases. It builds people's confidence. This is probably why most of us have favorites when it comes to tasks like shopping online, banking, etc.

Knowledge-based trust comes from the ability to predict the behavior of the other party based on the knowledge of prior experiences.

Interestingly, knowledge-based trust is also a major reason why occasional anomalies do not completely damage our trust in the system. For example, phishing and identity fraud are major problems plaguing the online banking system; yet, it has not managed to destroy people's trust in the system itself, as they continue to use them. People understand that a certain system is supposed to work in a certain way. Over a period of time, this trust develops strongly in its favour.

□ **Deterrence-based trust** This is the form of trust that is found to be holding together a relationship that values a particular behavior to a great extent and even a single violation would destroy that trust and consequently, the relationship. It would not be wrong to say that this trust may even define the relationship.

These relationships are fragile, vulnerable, and very significant to those who choose to enter into them on the basis of such a trust. For example, in a marriage, usually certain values are implied, such as fidelity, exclusivity, confidentiality, respect, and trust. Even a single violation may spell trouble

Deterrence-based trust comes from the perceived fear of retaliation from the other party.

for the relationship. Similar is the case with lawyer-client confidentiality, doctor-patient confidentiality, journalist and sources, etc. Here, a single violation on either side will prompt the other party to back out of the relationship. This is operational even in simple market-pricing situations. For instance, suppose you buy a used car from a dealer, who, you realize later, has cheated you in a big way. Not only will you never go back to the person, but you may even take them to a consumer court for breach of trust.

Thus, the deterrence towards violation comes from the risk of jeopardizing the relationship, and a fear of reprisal. Deterrence-based trust will work only so far as this reprisal is possible, and the punishment is actually meted out. Once this trust is broken, it is almost impossible to be reinstated. If ever it is, it will not be to the same degree. For example, you share something confidential with a friend, your confidant of many years, and you later find out that he/she shared it with his/her spouse. You trust your friend, but not their spouse. In future, you may not share intimate or personal details with your friend.

2. Identification-based trust

For synergy, growth, and development in any relationship, this is the best form of trust to have. Identification-based trust works on the principle of shared objectives, goals, desires, which lead people to place their trust in each other over and above an emotional connection they share. Here, people connect on the basis of shared goals, and also understand each other, which leads them to trust each other enough to believe that their interests will be fully protected and no caveats will be necessary.

Identification-based trust comes from a deeper understanding of the value system of the conflicting parties.

For example, team sports wherein a particular team executes a flawless game, or a long-held successful business partnerships, a perfectly executed performance be it a musical recital or a film, where each character is portrayed brilliantly, etc. Consider a pair of trapeze artists where one member trusts the other completely.

In communal-sharing relationships, such as workforce of any organization, special task forces of various agencies, this is the form of trust one sees developing, where every member can act as an agent for the other and can substitute for that other person. Controls, caveats, and surveillance are at a minimum here because everybody understands their collective responsibility and there is a strong sense of loyalty. Thus, identification-based trust permits a party to serve as the other's agent in interpersonal transactions (Deutsch, 1949).

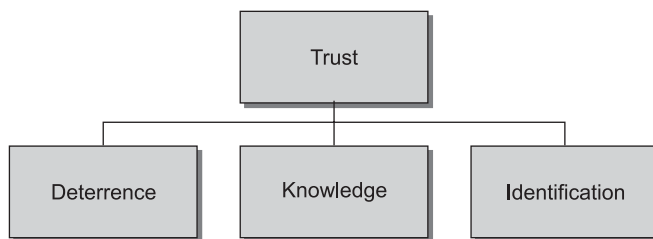


Figure 1.5 Sources of trust

1.3.4 Value of Credibility in a Relationship

Have you ever heard of this adage: People may not remember what you did for them, but they always remember how you made them feel? By a long shot, this is true for most of the relationships or interactions we have. At times, even when we find ourselves in disagreement, we develop respect for the other party if they have behaved in an honorable, trustworthy, respectful, and dignified manner. There are times when it is impossible to agree to the other party's demands, but it is also equally impossible to vilify or dislike them for the differences with them.

Credibility is such a thing. Consider the following instances:

- You don't mind driving 3 km off your way to work and back if you have to get your car refueled, even though there is a petrol station just 50 m from your house, because this one is the only one around your area to have a reputation of dispensing unadulterated fuel.
- You have invited your peers and seniors to your house-warming party, and are looking to hire caterers for the night, trying to decide between two people: one cook is exceptionally skilled, and has a well-trained staff on board, but in one instance, at your sister's small-scale do, he stood her up and only sent three of his cooks after a lot of prodding and name-calling. The other does not do anything fancy, but has a team of dedicated helpers, and his word is known to be as tough as a rock, his management so that there are no delays. Whom would you call?

You may feel that we are still talking about trust. But, it's not just that. Credibility goes further. Credibility encompasses elements of respect, reputation, and trust. Simply put, would you buy a hair-growth medication from a bald salesperson? Or, take diet advice from an obese dietician? Why not? —Because of credibility issues. In the personal world, the correlated word may be respect. But, in the executive world, credibility is a much-valued asset. It is important because it inspires trust. The greater your credibility, the greater the trust people would have in you; greater the weight of your words, actions, or opinions, and thus, greater your ability to influence people.

It is the reason why in corporate set-ups, huge resources are allocated to areas such as brand building and image management. Today, when we identify certain brand names with certain values, we do not bother to check their products every time we invest in them. Be it an insurance plan, a pair of jeans, a jar of ethically sourced coffee, anti-ageing creams or even organic cookies. With regard to a conflict, credibility is the best thing you could bring to the table if you want to convince or persuade the other party. And, let it also be said that if you lack credibility, even if you have a worthwhile thing to say, people will have made up their minds about it before you start speaking.

1.3.5 Reputations Matter During Negotiations

Reputation and credibility are built over time, with consistent behavior, reliability, and commitment towards a goal. It is when you demonstrate a particular behavior consistently

over time—be it a skill, ability, attitude, or personality—that you gain a reputation for it. Your reputation is given to you by the people you interact with, from the impressions they gather about you throughout that interaction.

Reputation is a ‘perceptual identity, reflective of the combination of salient personal characteristics and accomplishments, demonstrated behavior and intended images preserved over time, as observed directly and/or as reported from secondary sources’ (Ferris, Blass, Douglas, Kolodinsky, & Treadway, 2005). Thus, from the definition, we can draw a basic understanding that reputation is not something that you think you are. It is what others think of you. For example, your boss, who you find an insensitive slave driver, for being uninterested in aspects of his team members’ personal lives, including illnesses and difficulties, may simply think himself to value work over anything and everything else—an ambitious workaholic. He may only bring out his caring side during unofficial, informal gatherings, such as an office picnic. Thus, reputation is a highly subjective realm.

As a result, at times, reputations may result in creation of certain prejudices, presuppositions and expectations that, at the time of looking for solutions creatively while handling a conflict, may prove to be counter-productive. As they say, ‘first impression is the last impression’, which brings us to the idea that during a conflict, parties have a lot riding on their reputations. Those who have positive reputations will have it easier to find people willing to engage with them, work with them, and even trust them better. Normally, positive usually means willingness to allow the other party to make possible gains i.e., an integrative approach. Negative would indicate a distributive approach, a tendency to garner most gains for your own side, at the cost of the other party.

Negotiators with positive reputations find willing bargaining partners more easily (Glick & Croson, 2001; Millinski, Semmann, & Krambeck, 2002), and achieve better bargaining outcomes (Tinsley, O’Connor, & Sullivan, 2002). When individuals face a negotiator with a positive reputation, they trust that negotiator more, communicate interests and priorities more openly, and use fewer defensive and distributive bargaining tactics (Tinsley, O’Connor, & Sullivan, 2002).

1.3.6 Power or Leverage

We have seen in the examples appearing before, how trust, respect, credibility, reputation, come into play with regard to a relationship, and as a result, also when that relationship suffers threats. There is one element missing as we try to understand the structure of a relationship, and correspondingly, a negotiation. This crucial element is power. It is perhaps the most obvious element of any conflict and negotiations resulting thereof.

Power can be defined as the ability to influence outcomes.

What do we mean when we say power? Is it the power to carry out what you believe you are supposed to? Or the power to harm your opponent? Or the power to influence your opponent? Or the power to deprive you opponent of something in order to get him to concede to your demands? Or, is it the power to allow your opponent to feel a sense of gratification?

Needless to say, power comes in many forms. Bell (1999) has described power as a relational or communal phenomenon, ‘an exchange of influence’. Or, ‘a party with power can induce another to do what the latter otherwise would not do’ (Dahl, 1957; Kotter, 1979).

In working, healthy relationships, the parties involved have usually worked out a tacit or a solid, legally binding agreement to share their power—the ability to influence and impact actions, decisions, and behaviors. When a conflict occurs, this power balance shifts towards one party, thus upsetting the status quo. But, this rudimentary understanding of power makes it look as if the party in whose favor the power balance shifts ends up having an almost absolute grip over the relationship. This is not so. For example, even a worker on the lowest rung of hierarchy in an organization has the power to demand explanations, protest, complaint, should any issue warrant it. Similarly, as we have been witnessed recently, even the most autocratic regimes have, at some point of time, had to deal with a demonstration of power by the people they have ruled for decades.

In a conflict though, ideally, every negotiator would try to gather most of the power in order to maximize his/her influence over the other parties. Here, it is important to note the use of two words ‘power’ and ‘influence’ that seem to be denoting the same action. But, there is a slight difference. According to French and Raven (1959), power is a potential influence, while influence is kinetic power or power in action.

Now, power is a great thing to have, obviously. But, the question that arises is about its use, especially during a conflict situation. Raw power, muscle power over the other party, beyond physical terms, this would mean the use of strong-arming, coercive, abusive ways to intimidate and control others. On the other hand, use of power to work with the other party in finding creative solutions creates a sense of cooperation, non-confrontation, mutual gain, and enhanced trust. Thus, power can be used to dominate and control the other (in the context of distributive bargaining) and power can be used to work together with the other (in the context of integrative bargaining) (Coleman, 2000). Also, parties with cooperative goals want others to perform effectively and achieve common objectives. Parties with competitive goals look to reinforce or enhance existing power differences, and to use that power to maximize one’s own goals, often at the expense of the others (Deutsch, 1973).

Or, as Bell (1999) has provided—while describing power as a relational or communal phenomenon, an exchange of influence—a difference between ‘power over’, demonstrated by leverage or control, and ‘power to’, demonstrated as empowerment. Again here, the former can be seen as a characteristic of distributive bargaining, and the latter as a characteristic of integrative bargaining.

1.3.7 Sources of Power

This section is based on John R. P. French and Bertran Raven’s seminal work on power. They have identified five main sources of power. As per a 2008 article by Bertran Raven, there are now six sources of power. In 1965, Raven subsequently identified a sixth separate and distinct base of power: informational. He revised the model to include a sixth form by separating the informational power base as distinct from the expert power base.

The model further differentiates the six sources of power into:

Basis of Power	Further Differentiation
Coercion	Impersonal Coercion & Personal Coercion
Reward	Impersonal Reward & Personal Reward
Legitimacy	Formal Legitimacy (position power), Legitimacy of Reciprocity, Equity & Dependence (Powerlessness)
Expert	Positive and Negative Expert
Referent	Positive and Negative Referent
Informational	Direct and Indirect Information

Source: Paper by Bertran Raven

1. Expert power

Possessing or controlling knowledge or information or in-depth insight on a particular subject.

Don't we say 'information is power'? Being an expert in any particular subject, or being knowledgeable in a particular field, lends us credibility when opinions matter, foresight when it becomes important to judge and predict the present and future scenarios. And, having information valued by parties involved in a conflict places us in a position where it could make or break negotiations.

For example, two parties are locked in conflict over a workplace accident in which a worker was critically injured; the result being the worker's family members suing the company with a range of major allegations of neglect and ill-will. An independent expert in the working of the machinery can throw light on how the worker may have injured himself, in order to probe the allegations of sabotage.

2. Reward power

Possessing the means to reward others for doing something you want them to do.

This form of power allows us to use resources to motivate others into action, as a reward for doing what we want done. The most common example is the system of promoting people in an organization: We grant power and prestige, and also monetary advantage to people who we feel have earned the right to it through their hard work, commitment, and dedication.

3. Coercive power

Possessing the means to punish others for not doing something you want them to do.

The opposite of reward—coercive power is about withholding resources or denying access to them when people do not do something you want them to do. For example, credit card companies lower the ceiling of credit you are allowed if you fail to consistently clear your dues within the required time frame.

4. Legitimate power

This is the power associated with a position or formal title you hold in an organization, or an institution.

This is the power that comes with a certain position of authority. For example, the power you enjoy in an organization as its CEO would be far greater than that of a regional manager. In this sense, it endows you with reward power and coercive power with regard to those working under you. But, you can also view this in the light of other sources of power: As a high-ranking official, it gives you information power. You may have been given this position because of your expert power: your knowledge of the field your organization is working in. You may also wield referent power by coming in touch with other high-ranking individuals, and also because your position holds 'aspirational value' for others.

The effectiveness of formal authority is derived from the willingness of followers to acknowledge the legitimacy of the organizational structure and the system of rules and regulations that empowers its leaders (Barnard, 1938).

This form of legitimacy also takes into account certain social norms or customs. These are:

- ❑ **Power of reciprocity** If someone does something good for you, it is a generally accepted norm that you would be expected to reciprocate in some manner.
- ❑ **Power of equity** If someone goes out of his/her way to do something for you, they earn the right to request something from you. For example, your colleague holds down the fort when you need to be away during festive time to celebrate with your extended family, he/she would expect you to fill in for them during meetings if and when they are late.

5. Referent power

This is the power you hold over people that find you compelling for your qualities, personality, values, style, approach to situations, intellectual disposition, or for your proximity to people in places of power. Clearly, the scope of this power is limited by the extent to which others identify with you, or simply put, wish to become like you, be associated with you, or be in your shoes.

For example, 'star power'. People become 'stars' and have the power to influence millions of people on various things such as dress, looks, hobbies and interests, work, etc. You can also see referent power at work prominently in political circles, where knowing and being close to a person in power itself is enough to make you look powerful in the eyes of others.

Research has shown that being at the center of information flows—via formal and informal networks—is particularly important to being promoted (Brass, 1984).

Other than these, following sources of power can also be seen at work:

(i) Power of competition

If you can create competition for something you possess, the value of that thing, which could be a product, service, style, or even an idea, goes up. We often see this phenomenon

reflected in various fads: technological gadgets, applications, fashion, etc. One person makes something 'cool' and thereby, 'exclusive', which then becomes something everyone else wants to acquire.

(ii) Power of legitimacy

Instructions, information, ideas that appear in print acquire legitimacy in the mind of readers that may not always be challenged. Take for instance, the growing trend for organic food products. We are more likely to trust products packaged and stamped 'organic', displayed in the 'organic foods' aisle of a supermarket, than buy up produce from a vendor who turns up at our door claiming that the produce comes from his own backyard, grown without using pesticides and insecticides.

(iii) Power of risk-taking

Taking risks is about using common sense to calculate the benefits of taking a certain course of action as against if you did not, and then having the courage to back your decision when it is time to act. In negotiation, it helps to be willing to take a risk, and also, knowing when to do so. For example, whether to call your opponent's bluff and when to show some temper in order to provoke the other side into revealing their cards.

Without some willingness to take risks, the other side will find you gullible and will easily manipulate you. But, when a lot is at stake, try to spread the risk around. Try to show that if you don't get what you want even to a small extent, the other side too will lose out on a great deal. Hinting the possibility of no deal or a deal that would not bring much benefit, will make your opponents more eager to arrive at a solution with you.

(iv) Power of commitment

Power of commitment is the willingness to back a certain approach, vision, idea, or a method whole-heartedly. During a negotiation, if you show unshakeable commitment to your vision, your values, the agreed-upon manner in which a process should continue, you communicate your faith in it, which gives you a great deal of power in the eyes of your opponent.

For example, your negotiating team comprises members from various departments, who have reached a complete agreement about what you are going to demand, and how you are going to do so. But, during the negotiation, in spite of the opposition trying to provoke one of your team members against you, with divide-and-rule strategy, if you don't fall for it and steadfastly support your team members instead, it will put you in a place of strong power.

(v) Power of knowledge of 'needs'

Some people have this amazing ability to cut through the words and actions of others, and piece together those things they do not verbalize—analyzing the gestures, expressions, tactics, strategies, conduct, and reactions—to figure out their real intentions. These people have the power to see what others don't. This power helps them address the innermost needs of the other side. To cultivate this ability, listen to the other side a fair bit, for the sake of understanding

them, and not for giving them a ‘fitting response’. Ask questions to better understand their situation.

(vi) Power of investment

Parties involved in a conflict choose to negotiate because they see better gains this way than if they didn’t. Thus, their decision to negotiate is itself an investment of their time, commitment, and resources, in order to gain something. The greater this investment, the more they will be dependent and anxious for it to work. Thus, if you can get the other party to invest more in a negotiation, you will find that it gets easier to get them to agree to your demands. This is because usually people don’t like to walk away from the negotiating table with a sense of loss—that you did so much and managed to get nothing out of it.

During such a negotiation, if a quantifiable issue pops up, keep it aside for later, when you and the other party have already resolved the other non-quantifiable issues. When you have achieved an agreement on most of these, you will find more takers for your ultimatum on the quantifiable issue. The other party will feel a sense of loss if it considers walking away after having reached an agreement on a host of issues.

(vii) Power of morality

Most of us assume that what we are doing is good for those around us, and thus, morality can be used as a handle during negotiations. If, at times, you find there is no easy way to make the other party see that their actions or decisions are unsuitable, you make them question their worth from the point of view of morality. For example, during the economic downturn, your company has laid off many workers, but as regards the severance package, which includes three months’ pay, the company has decided to save expenses by reducing this to one month’s pay instead.

You, as the HR manager, question the general manager on the terms of morality: the workers have already been hit when the chips are down, it would be immoral to cut their severance pay—something they took for granted while taking up the job. It would be more just to ask the current employees to let go a certain percentage of their salary so that those made redundant can be awarded the severance package as promised.

(viii) Power of symbols

Symbols carry significance of hierarchies, power equations, etc. These could be used to your advantage during negotiations, particularly during competitive or distributive negotiations. There are times when a more powerful person chooses the most plush, comfortable seating and place at the negotiating table, much to the discomfort of the other party. Similarly, at times, people are seated right next to their adversaries, or even those who are considered unimportant, to gain a personal edge over that person. Often, such steps unnerve the other party and put them at a disadvantage with regard to their performance.

Thus, to make the best use of power, one must understand what forms of power are at play in any situation. Accordingly, a suitable strategy can be framed.

1.4 FUNDAMENTALS OF NEGOTIATION

UNDERSTANDING CONFLICT

The Chaudharys were a disturbed lot lately. Their family patriarch was dead set against a particularly profitable deal for their ancestral family home, veritably a haveli, even in the face of severe financial crisis. Consequently, there was tension among his four sons and their families, who all lived as a joint family. At the heart of the conflict was the 25-room extravaganza with five halls, three gardens, four beautiful outhouses and a swimming pool. Cracks had started to appear at least ten years ago, when the four sons started their own families and their responsibilities increased, while income from their individual local businesses in their small city waned. The haveli was a sink, sucking up huge amounts of money.

As joint-family customs go, they were united but the financial problems threatened to affect each one's outlook to concentrate on improving their own affairs first. Their father recognized this and was worried, since the last thing he wanted was a fight over their family's biggest heirloom, which they called 'home'. The father was 72-years old and had retained the ultimate authority over the family's coffers, which were severely depleted, and the situation could only get worse. Although privy to the difficulties his sons were facing, he was old school, and to him, selling his ancestral home was not negotiable. He was wary of doing so for a major sum, after which his sons would feel free to claim their share and go their separate ways.

All that the patriarch could do to help was to use the money from their coffers, which he did, but with a tight fist. Yet, it was not enough, and nor was it sustainable. For, ensuring the upkeep and security of their home was a major part of their expenses. He knew that this was a major bone of contention between him and his sons, who expressed their frustration at the price they had to pay to keep their home habitable, while trying to convince him to sell it. After a few attempts, he would respond with hostility, threaten to withdraw the help he was providing, while feeling deep anguish at his sons' insensitivity toward the abode of their ancestors. His sons, wary of the threat being carried out, stopped arguing with him over this but started threatening to break away from the family fold. Of late, in an attempt to lure their father with an attractive offer, they had directed investors towards him without claiming knowledge about them, and all of them had been turned away by some condition imposed by their father.

For the patriarch, though, no offer was good enough. The sons try to reason, albeit unsuccessfully, that they had neither the wherewithal to clear their debts without piling on more, nor could they afford to continue to live there without incurring huge expenses. At this point, it could have gone any way—bickering and frustration over expenses and their father's stand could have split them up; they could have gone on having a bad time with stretched finances, blaming their father till he finally relented to give up the home at a bad price and embittered relations; they could have pressured their father into accepting a generous deal, but not without hassles of dividing up the spoils and losing his respect and possibly, that of the community at large.

But, after struggling to find a solution for a while, the sons sent an hotelier friend of theirs to meet up with their father and express his interest in converting the house into a heritage inn after putting in restoration work that was due. It was under the pressure of that deal that the father confided in one of the sons that his main concern in making a deal was letting go of the house, which he saw as his image, that of his ancestors and of their family and traditions. Giving it up would mean a loss of control over his family—which may scatter if the sons decide to live separately. He took pride in their joint family system, which was now a tradition unbroken for more than a hundred years. He also believed that holding on to this property was the only way to keep his sons together, with him.

The sons discussed this and understood their father's predicament. They were also relieved to discover that they unanimously wished to stay together as a family. Aided by this resolution, they convinced their father to let out major parts of their ancient home to their hotelier friend, and to let him develop it as a heritage inn. Their father agreed to sign up a 10-year contract with the hotelier to develop the building as a franchise of their hotels for some cash up front, excluding the money required for immediate renovation, furniture changes and repairs. The hotelier, whose chain was known mainly for budget hotels, was happy to make their first foray into 'heritage inn' model of luxury travel and tourism without making any major investment.

One of the conditions agreed upon was that they move into smaller quarters of a section of the building and one of the sons took up the job of overlooking the day-to-day administration of the inn, while the others would be responsible for overseeing renovation work and extra facilities. The hotelier would pay a share in maintenance expenses based on the profit and occupancy levels and would take care of promotions.

While how you view a conflict or a negotiation situation depends in a big way on where you stand in it, what your priorities are, and how capable you are of getting what you want, understanding of the following elements is imperative for analyzing any conflict situation. Remember that conflict is a usual part of group work. Well managed conflict is an asset to the team, not an obstacle.

1.4.1 Context

It is commonly said that history should be interpreted in the context of the time it speaks of. There was a time in Europe when you would get knighted for an act of chivalry, which often included taking the life of someone who could be said to have committed a major wrong. Today, no matter how grave the acts of others may be, taking someone's life is certain to get you jailed. There are numerous things we do today that we would have been difficult to justify even 50 years ago. This is because the society has changed, the context in which we view things has changed too—love marriages, child marriages, divorce, and travelling abroad, women's rights, social customs, superstitions, professions, media, technology, wars—the list is endless.

Context is what affects our perspective. In the same way, in negotiations too, context is the key to viewing and reading the situation correctly. Take the case given above, the sons considered their father obstinate, awkward, and apathetic to their financial distress until they

understood the emotional connection between his ego, sense of position in the family and his ancestral pride, and his fondness of their ancestral home.

No sooner did they understand his view, they realized what the possible solution could be—to broker a deal in which they did not lose the home, and also managed to get financial help. This case discusses a family problem with a relatively uncomplicated situation, where the cultural and societal parameters remained the same. But, since context is affected by factors like culture, age, positions or hierarchy, norms, and traditions, negotiations involving parties from different backgrounds have to be extra-careful about understanding the reasons behind the positions and stances assumed by the other party.

Putting conflicts in their true context is the key to understanding them. A small example of how contexts are interlinked with social and cultural changes: before the advent of real-time communication, or before the advent of cellphones, it was a norm to simply drop in on near and dear ones for a visit without even so much as a prior intimation. But that is not the case now, when even siblings call, inform, and sometimes even ask about the other's convenience regarding a visit to their place. We can see that earlier, what used to be a 'pleasant surprise' has in some cases become an 'inconvenience' now.

1.4.2 Interests

Actual interests of parties involved in a conflict or a negotiation are often hard to identify, since they are found to be playing on many different levels. Consider the case mentioned before: The family patriarch was adamant about not selling the house, not just because he was emotionally attached to the home of his forefathers, as the sons discovered later, but because of two things: his desire to remain the head of the family, and to continue the tradition of joint family. Context is the key that unlocked the mystery about their father's actual interest, as shown above.

Thus, the involved parties' actual interests behind going into a negotiation are often hidden from plain view. When people are trying to maximize their gain from a deal, they believe it helps to conceal their interests. Consider that you are out to buy a car, at a budget of ₹ 10 lakh. If you say reveal this to the salesman outright, would you be able to bargain the cost to ₹ 9 lakh, with insurance and accessories included? Similarly, if you are the CEO of a company that is due to negotiate a new contract with its employees, would it help to reveal your capacity to give them an 18 per cent raise across the board and yet sell them a 10 per cent raise?

On a similar note, as the outgoing MD of your company and the CEO-designate, you have to choose your successor from two individuals, where one is extremely competent but lacks people skills and finds it easy to challenge authority, and the other is equally competent and is more mindful of hierarchy but low on creativity. You choose the latter, so as to ensure a smooth transition during your tenure as his superior. How would you justify your decision to your board? Would you reveal your selection criteria as it is?

As we can see in these examples, the party you are dealing with in a negotiation situation may conceal its real interests in order to maximize its gain. You may end up conceding more than you should. Thus, in a negotiation, the need to know the actual interests of the other party is all-important. When you figure out what your opponent is expecting out of the deal,

you can tailor a strategy suited to raising the likelihood of a settlement that would be more acceptable to you.

Conflict resolution experts Robin L. Pinkley and Gregory B. Northcraft suggest the use of ‘conflict frames’ – which explain a certain orientation that causes people to focus on particular aspects of a conflict. Knowing and understanding these conflict frames may help us understand what motivation our opponent is working with:

1. Relationship/Task frame

This frame refers to the extent to which parties involved in a conflict focus on their relationship or the material aspects at the heart of the conflict. A person with relationship orientation will focus on interpersonal issues, while a person with task orientation will focus on the material aspects of the conflict, such as money, property, and resources.

2. Emotional/Intellectual frame

This frame refers to the degree of attention that the parties pay to the emotional aspects of the conflict. A person with emotional orientation will focus on the emotions on display during the handling of the conflict, while a person with intellectual orientation will focus on the behaviors that the parties employ during the course of the conflict and its resolution.

3. Cooperate/Win frame

This frame refers to the attitudes borne by the parties with regard to the responsibility for the conflict. A person with cooperative orientation will focus on sharing the responsibility for the conflict, and thus will attempt to work for mutual benefit of both the parties during resolution. A person with the win orientation blames the other party for the conflict and thus seeks to keep the maximum gains for his side.

Summary

Conflict is defined as a fight, battle, struggle, or discord of action, feeling or effect, incompatibility or interference, in terms of an idea, desire, event or activity with another. There are four levels of conflicts and three types of conflicts covered in this chapter along with the effective ways to tackle them. The four levels of conflicts are intrapersonal, interpersonal, intragroup, and intergroup. While the latter three are relatively easier to spot, intra-personal conflict requires a psychological angle to deal with. Similar to the levels, there are three types of conflicts: resource, process, and relationship. While the other two are relatively easier to understand and solve, relationship conflict tends to challenge rationality in behaviors. Conflict management is a very valuable skill. Dealing with a multi-dimensional conflict requires identification and understanding of all the components. Conflict resolution can also be achieved through a process of agreement called negotiation. Ways to reach a settlement, through integrative and distributive bargaining are further elaborated on. It is crucial to note that trust, respect, and power are integral to a meaningful, healthy, and functional relationship between the parties. Power can be derived from 6 main sources, explained via John R.

P. French and Bertran Raven's seminal work on power. The last part of the chapter focuses on the fundamentals of negotiation and provides an understanding of the elements that are imperative for analyzing any conflict situation.

Discussion Case

Shikha, a young woman of 25, works with an NGO in Rajasthan that provides support and rehabilitation to abused women. Shikha hails from a middle-class family with humble beginnings. Her father, a chemistry teacher in Bhopal, raised her with strong values and a sense of social responsibility. Shikha's mother, a homemaker, is a confident lady who instilled tremendous courage and confidence in Shikha.

While students her age were deciding which stream to choose among science and commerce, Shikha had already envisaged a career path for herself. As a child, she would accompany her father for volunteer work in social service organizations reluctantly. As time passed, she began enjoying the various activities and opportunities such experiences gave her. Most importantly, it made her happy. A smiling face, a small gesture, chatting or sometimes just listening to an old lady who just wants to be heard, this is what she loved doing. Her career choice was clear, she aimed for a master's degree in social work, and then aspired to join an International Agency like the UN, which strives to create a better world.

While Shikha could afford the luxury of taking a break for a year after her under graduation in political science, she preferred to move out of her home in Bhopal and get a hands-on experience of working with people at the grassroots level for a cause dear to her, Woman and Child Development.

The NGO she works with has a wide presence all over India and is headquartered in Delhi. The NGO is renowned for its phenomenal work in raising awareness among women about their rights, the legal recourses available to them, helping them fight and report abuse, and rehabilitate and empower them to start their lives afresh. The NGO has partnered with the Government of India on various initiatives successfully and has also received various prestigious awards for its contribution.

Shikha, impressed by the body of work the NGO has accomplished, saw the tremendous opportunity and experience it would offer her and decided to apply for a position there. Her eagerness to serve landed her in their branch office in Rajasthan 8 months back.

In the village where she worked, her NGO and their staff were always viewed with colored lenses. The *sarpanch* of the village seemed unhappy with the new organization that was spoiling, corrupting and eroding the essential *sanskars* of *bahus* and *betis*, by slowly empowering them with a voice. Shikha and a few of her other colleagues won the hearts of the people with their charming ways and the villagers welcomed them home with open arms.

Things were however, turning quite sour. In a recent case of domestic violence, the husband abused his wife, Santosh, who had suffered considerable injuries. She finally decided that she had had enough and wanted legal recourse. She approached the NGO with her pleas for help

and followed their usual procedure and helped her in the legal processes involved, beginning with the filing of the FIR. Shikha, who knew her well, appreciated her courage, supported and assisted her throughout.

Shravan, a Member of Parliament from Rajasthan, received a call from his *chacha ji* in the village, who apprised him of the situation and requested him to use his means to suppress the issue altogether, as it would not only affect the family reputation but also put his son's life in jeopardy. Shravan wields considerable power in the administration and was reputed for his wanton abuse of power during the earlier days of his political career.

Shikha began receiving veiled threats and messages, which were slowly getting nastier. She began feeling extremely uncomfortable and could sense a cold vibe from the very same people who always invited her for tea, with a warm smile. She could sense that something was wrong. Santosh was suddenly behaving abnormal. There was a growing sense of unease and she began wondering what might have gone wrong. Should she confront Santosh? Should she talk to the villagers about it? Was this a beginning of a bigger issue?

Points to Ponder on

- Stake of each party involved: what do they gain and what do they lose? How much intrinsic value does the gain or loss hold to each of the following parties: the NGO, Shikha, Santosh, the MP, *chachaji*, and Santosh's husband?
- Is there a conflict situation emerging? At what level is the conflict emerging?
- What are the power equations involved? While the muscle power of the other party is evident, what are the leverages available to Shikha, with which she can help Santosh?
- With the inputs provided, analyze Shikha's most-likely response (Use personality traits for discussion).
- Considering the muscle power of the opposite party, and Santosh, on the other hand, having enough proof of abuse, can the issue be resolved out of court?

Activity

This activity requires four people. One will represent the human resource department of the company. The rest will represent the new management trainees in the company.

The company has recently realized that the new recruits stay longer with the company if they are given roles of their choice. However, the company feels that sometimes the new recruits end up preferring roles that may not suit them, thereby affecting the company's performance.

The company has appointed HR personnel to deal with the three new management trainees and offer them the roles. The HR manager's job is to find the management trainees a role of their liking. However, the company will offer a different combination of fixed/variable pay based on whether the employee selects the roles of their own choice or the role that the company assigns.

Trainer's Material**1. HR Manager's Sheet**

You know that all the three trainees are from premium institutes and hence have got other offers.

All three may have an offer of 80,000 Fixed Pay + 70,000 Variable Pay from your competitor for their choice of role. You, in any case, do not want them to leave.

The company is willing to offer 80,000 Fixed + 70,000 Variable if the employees take up the role of their choice.

The company is willing to offer a maximum of 120,000 Fixed + 30,000 Variable if the employee takes the role offered by the company. (Employees are not aware of this). However, the industry standard is 100,000 Fixed + 50,000 Variable.

Your job is to convince the employees to take up the role offered by the company. You will get a bonus of ₹ 10,000 per employee, when they take the role that the company offers. Also, if all three trainees take the roles offered by the company, you get an additional bonus of ₹ 20,000. However, if you offer more fixed pay than the industry standard, that amount will be deducted from your bonus.

Also, you cannot pay more than the industry standards if they take their choice of roles. But if all three are given their choice of roles, then you will get a bonus of ₹ 5000.

2. Employee's Sheet

Person–role fit, as wanted by the company:

- A Marketing
- B Advertising
- C Branding

You might get the role of your choice with 70,000 fixed + 80,000 variable for Company B or Company C. However, Company A is more reputed and hence you would like to work here. You would want to take the role of your choice for better future prospects. However, you know that company A prefers its employees taking the role assigned by them. The benefit you have is, you have to get more fixed pay and less variable pay if you take up the role given by company. Fixed + variable remains to be ₹ 150,000.

Exercises**1. Multiple Choice Questions**

- i. What can be the reason of the variation in an individual's behaviors, feelings, and responses when handling a conflict during negotiation?
 - a. Disagreement
 - b. Perceived threat
 - c. Interests
 - d. Concerns

- ii. When it comes to conflict and productivity, research has strongly suggested
 - a. conflict should be avoided at all costs.
 - b. conflict costs almost double productivity input.
 - c. conflict can be functional and improve productivity.
 - d. conflict and counter-productivity are predictable.
- iii. The bargaining strategy that operates under zero-sum conditions is called
 - a. win-win
 - b. collaborative
 - c. integrative
 - d. distributive
- iv. The type of trust that works on the principle of shared objectives, goals, desires, which leads people to place their trust in each other over and above an emotional connection they share is
 - a. calculus-based trust
 - b. identification-based trust
 - c. deterrence-based trust
 - d. None of these
- v. The structure of a negotiation includes
 - a. relationship and power
 - b. relationship and positions
 - c. positions and power
 - d. interests and power

2. Fill in the Blanks

- i. Nationalism, celebrities, mass leaders and widely respected people are examples of _____ power in effect.
- ii. Timely and relevant information delivered on demand can be the most influential way to acquire _____ power.
- iii. Receiving approval from a desired person and building relationships with romantic partners is an example of _____ power.
- iv. _____ power in a positive form influences the target to act accordingly as instructed by the expert, based on the assumption of the expert's correct knowledge.

3. True or False

- i. Interests are concrete things you want in a negotiation while positions are why you want them.
- ii. When parties disagree over how their objectives are achieved, or apply strategies that are incompatible with those of others, a process conflict arises.
- iii. Relationship conflicts are personal conflicts between team members.
- iv. Separating the people from the problem helps diminish relationship conflicts during negotiations.
- v. In resource and relationship conflicts, it is possible to lead parties to look at the issue objectively and bring them on the same side of the table, while isolating the problem on the other side.

4. Match the following context frames with what they refer to

i.

a. Relationship/task frame	1. the attitudes borne by the parties with regard to the responsibility for the conflict
b. Cooperate/win frame	2. the degree of attention that the parties pay to the emotional aspects of the conflict
c. Emotional/intellectual frame	3. extent to which parties involved in a conflict focus on their relationship or the material aspects at the heart of the conflict

ii.

a. Interpersonal conflict	1. can occur when groups interrelate to accomplish the organization's goals and objectives
b. Intrapersonal conflict	2. delicate, with differing personalities, individual egos and agendas at play
c. Intergroup conflict	3. conflict between two or more members of the same group or team
d. Intragroup conflict	4. psychological, involving the individual's thoughts, values, principles and emotions

ANSWER KEY

1. i. b	ii. c	iii. d	iv. b	v. a
2. i. referent	ii. informational	iii. reward	iv. expert	
3. i. false	ii. true	iii. true	iv. true	v. false
4. i. a-3, b-1, c-2;	ii. a-2, b-4, c-1, d-3			

Exhibit 1.1**Strategies for Conflict Management**

- ☐ **Confronting or problem solving:** This involves a rational problem-solving approach where disputing parties resolve their differences by focusing on the issues, looking at alternative approaches, and selecting the best solution. The resolution is sought through face-to-face confrontation of the conflicting parties.
- ☐ **Compromising:** This involves bargaining and searching for solutions which bring some degree of satisfaction to the disputing parties even though the result is less than optimum. This requires each party to give up something of value and includes external or third party interventions, negotiation, and voting.
- ☐ **Smoothing:** This strategy emphasizes common areas of interest and de-emphasizes the areas of difference.

- ❑ Forcing: This involves exerting one's viewpoint at the expense of another and is characterized by competitiveness and win/lose behavior. This may also include authoritative command, where a superior holding formal authority imposes the solution.
- ❑ Withdrawing: This includes avoidance, retreating from the actual or potential conflict issue or ignoring it completely either out of fear or inadequacy of resolution or fear of escalation.
- ❑ Superordinate Goals: This includes common goals that two or more parties each desire and cannot be reached without cooperation of those involved. However, these goals need to be highly valued, unattainable without the help of all parties involved in the conflict, and commonly sought.
- ❑ Expansion of resources: This involves making more of the scarce resources available to all conflicting parties.
- ❑ Altering the human variable: This involves changing the attitudes and behavior of one or more of the conflicting parties by use of education, sensitivity and awareness training, and human relations training.
- ❑ Altering structural variables: This includes changing the structural variables including transferring and exchanging group members, creating coordinating positions, developing an appeals system, and expanding the group or organization's boundaries.
- ❑ Following rules: This involves following the rules and regulations strictly to gain more time in order to be fair.
- ❑ Accommodating: This includes allowing other's point of view to prevail by sacrificing one's own to accommodate others.
- ❑ Consulting: This involves discussions to take other's point of view on conflicting issues to make a final decision.
- ❑ Toning down differences: This involves reducing differences and emphasizing on common interests in order to maintain good relations.
- ❑ Coexistence: This includes jointly establishing bases for all parties to maintain their differences.
- ❑ Means-control strategy: The manager intervenes in the dispute by influencing the process of resolution (i.e., facilitates interaction, assists in communication, explains one disputant's view to another, clarifies issues, lays down rules for dealing with the dispute maintains order during talks) but does not attempt to dictate or impose a resolution (though he or she might suggest solutions); the final decision is left to the disputants; high on process control but low on outcome control (e.g., mediation, conciliation).
- ❑ Ends-control strategy: Manager intervenes in the dispute by influencing the outcome of the resolution (i.e., takes full control of the final solution, decides what the final decision will be, imposes the solution on the disputants) but does not attempt to influence the process; the disputants have control over what information is presented and how it is presented; high on outcome control but low on process control (e.g., arbitration, adjudication, adversarial intervention).

- ❑ Low control strategy: Manager does not intervene actively in resolving the dispute; he or she either urges the party to settle the dispute on their own or merely stays away from the dispute; low on both process and outcome control (e.g., encouraging or telling the parties to negotiate or settle the dispute by themselves, providing impetus).
- ❑ Full control strategy: Manager intervenes in the dispute by influencing the process and outcome (i.e., decides what information is to be presented and how it should be presented and also decides on the final solution); he or she asks the disputants specific questions about the dispute to obtain information and imposes a solution; manager has full control of the resolution of the dispute; high on both process and outcome control (e.g., inquisitorial intervention, autocratic intervention).
- ❑ Part control strategy: Manager intervenes in the dispute by sharing control over the process and outcome with the disputants (i.e., manager and disputants jointly agree on the process of resolution as well as strive for a consensus on the settlement decision); he or she works with the disputants to help them arrive at a solution by facilitating interaction, assisting in communication, discussing the issues etc. In addition, he or she takes an active role in evaluating options, recommending solutions, persuading the disputants to accept solutions, pushing for a settlement; moderate on managerial process and outcome control (e.g., group problem solving, med-arb).
- ❑ Distributive bargaining: This refers to the complex system of activities that are instrumental to the attainment of one party's goals when they are in basic conflict with those of the other party.
- ❑ Integrative bargaining: This refers to the system of activities which is instrumental to the attainment of objectives which are not in fundamental conflict with those of the other party and which, therefore, can be integrated to some degree.



Negotiation Performance and Negotiating Ability

Learning Objectives

After studying this chapter, you will be able to

- Outline the components of negotiation performance
- Define negotiating ability
- List the five dimensions of negotiating ability
- Understand how to develop your negotiating ability

DECODING NEGOTIATING PERFORMANCE

Satyavati Enterprises was a small firm compared to Bheeshma Group, which was the national leader in technology processing, outsourcing, and IT development. Yet, Satyavati had made big strides in an industry known for its dynamism and on the downside, unpredictably, so much that it was making its presence known with some low-budget but interesting projects it had bagged. Even though its turnover was nothing compared to that of Bheeshma, industry analysts were calling it the next big thing, which, if given the opportunity, could and definitely would top the charts.

More captivating than Satyavati's current balance sheet was its progress report, which held out clearly that it had made this transition from being a mere 16-member call center to this fortune's favorite child in a little over 15 years. There was a galore of explanations: they ranged from creative to constantly re-inventing itself, exceptional local outreach and marketing to visionary leadership, and the not-believers made accusations like hand in glove with policy-makers, lack of transparency, and so on.

One person oblivious to all this snuff was its owner, Nishadraj. He had only one interest in life: getting as far away as he could from the life his ancestors had led as a socially backward group that was denied equal opportunities to use their talents and flourish—a life he personally referred to as the swamp. He saw little use for self-righteousness about money and believed that those who said ‘money doesn’t buy happiness’ had lots more to learn about its power.

That is not to say he had no ethics. He did and he valued them, for he did ‘good business’—a catchphrase in his company—he researched the market with a hawk’s eye on the local scene like no one else did, made sure his employees were happy enough to stick with him and had ample work and challenges to not ever get complacent.

He also believed that others’ opinions and perceptions, including those of industry analysts, reviews, and media, were not his problem. This attitude ensured that the business he did with others always remained good for him. Others could adjust their perceptions, but he had an acumen that made him exceptionally good at identifying a promising deal or offer worth his attention and was crafty enough to get much more than what was expected out of it.

The only flaw with him, perhaps, was that his ideology was so driven by desperation to defy his personal odds that his vision was yet to make accommodations for valuable foresight. Yet, while Satyavati, his creation, was getting fitter and leaner to compete with the best, its size and intricacy of operations was limiting its expansion, but all he needed was a breakthrough. He decided he was not in a hurry and that the wait for a good opportunity would be worth its while.

A great opportunity is what Shantanu, the owner and CEO of the Bheeshma Group, saw in Satyavati Enterprises. Poring over the reports, the 60-year old veteran’s eyes gleamed, not because of how good a catch Satyavati was, but because his beloved son and partner, Devavrata had singled it out for acquisition. His exceptional son, at a very young age of 34, had truly arrived.

Shantanu’s large and diversified empire was the fruit of his family’s well-established legacy, their reputation, and their affluence, but none worth more than his innate ability to take calculated risks. He had not only made the right choices, he had made them at the right time. He was known as the man who could fabricate fortunes; count on him to pick just the right company or business on a nosedive and in time, it would spin its heels around gracefully, turning into a booming business. Timing was what he was excited about. Devavrata had picked the right entity at the right time, when the market was saturated enough to discourage non-serious bidders from taking risks. His son, who had progressively shouldered greater responsibilities in running the empire, had also demonstrated a skill that his father had relied on to bring Bheeshma to this level. ‘It is in his blood’, Shantanu thought, with relief and pride.

He had no doubts that once Satyavati was in the bag, he would formally hand over the group’s reins to Devavrata, who would make it an international leader. Shantanu held Devavrata in great esteem as while his own decisions reflected brilliance and dynamism at risk-taking, he believed his son excelled him in areas of work ethic, business and human resource management, creative approach to problem-solving and the grit to achieve his goals. In short, their work styles complemented each other perfectly, making them a formidable pair in the fraternity. Thus, Shantanu could not wait to see his son become one of the youngest and most powerful business leaders in the country, and he knew that the confidence imparted by the acquisition of Satyavati would catapult him there.

The more intensely Shantanu studied Satyavati's position, the more attractive he found it. He realized that the prospect of Satyavati competing with Bheeshma's tech arm was not a question of if, but when. Acquiring it would give him a local outreach spread over many small cities they had never before had; and there was a high possibility of replicating the model here and abroad! He realized that even if they did not go for a complete merger, collaboration could fetch him the foothold he would subsequently make sure to leverage fully to his gain. But, he knew that he would not have to downgrade his offer to that degree. The plateau that the market growth had reached was advantageous to Bheeshma and he was more than confident of his ability to negotiate, armed with his name, status, financial power, and last but not the least, an offer that promised robust monetary rewards.

The consummate negotiator in Shantanu was mystified to find that Satyavati's owner was a man about whom not much was known, other than his age, 47, and the fact that his only interest was to make 'good business', a term he had coined and was often used by those talking about him to explain his no-nonsense approach towards money. He found himself feeling somewhat relieved that as a strategy, he could simply concentrate on sweetening the offer a little beyond Nishadraj's expectations and the deal would be secured. If money is what Nishadraj was after, he had to look no further, thought Shantanu. He noted that the man's ascent was a rags to riches story and this told him that Nishadraj should be more than happy to make the most profit off the deal, free to invest the huge capital—even better if he could convince him to do so with Bheeshma. The latter would only be fair.

He set up a one-on-one with Nishadraj—a meeting that turned out to be peculiar, to say the least. Shantanu saw a rustic, focused man driven to beat all odds against Nishadraj, in spite of his admiration towards him. Yet, he found it unsettling that Nishadraj politely dismissed his efforts to indulge him in praise of his work—to build a rapport—and urged him to get 'straight down to business'. He found himself wishing for Devavrata's calming presence at the meeting.

He decided to then come down to business with full force, aggressively trying to sell his offer: he would offer 20 per cent more than Satyavati's market value at the time of the sale, 30 per cent of which would be paid in cash, rest of it would be managed through other instruments of Nishadraj's choice. Or, Nishadraj could hand over major control of the firm for a handsome reward and remain a stakeholder, joining the board of directors at Bheeshma Group.

Shantanu was stumped at Nishadraj's decision to reject the offer right away. Nishadraj certainly felt a sense of pride in being approached by an industry giant such as Shantanu but coming to the negotiating table, he sat an equal man, for he had sniffed out Shantanu's desire. With very little effort, he realized how important Satyavati had become to his adversary, and why. Satyavati would boost the confidence Bheeshma Group enjoyed from its investors exponentially. Regarding the offer, he saw Satyavati as not just a business, but as his life's work. Would he give it away just for money? Even if he did, was this the right price?

But, this is not what he told Shantanu. He plainly laid down three concerns: Satyavati's future as a company, its present commitments and its current CEO, Satyaa. Of the first, he said he did not want to see it absorbed, along with its employees, clientele and market share without a better price generated for him through power to influence decisions. Of the second, he

wanted that post merger, no changes be made in its running, project-holdings, or its hierarchy, or its staff. Finally, he would ensure that the man who brought Satyavati up to this level got his due—that Satyaa would remain the CEO of the merged enterprise, putting him at the head of a company 10 times larger than he was currently responsible for.

Shantanu was not amused. He was ready to ease up on the first two: a 12 per cent stake in Bheeshma tech's shares, a position on the Board of Directors of his Group, and not more than 20 per cent redundancies, not exceeding 10 per cent in the highest rung for the next three years. But, the third one meant snatching the CEO's position from his son, Devavrata and giving it to Satyaa. That, he could never agree to, no matter how much money or prestige he stood to gain.

Nishadraj made it clear that it was a 'take it or leave it' offer. For once in his life, he was not going to look just at profitability. Satyaa had worked with him for more than 25 years, never demanding anything more than the freedom to make use of his talents and a package that justified his efforts. Satyaa's soft-spoken manners concealed steel-like grit, a herculean ability to work hard and an insatiable appetite for learning through action. They both knew that he could never become Nishadraj, but the latter was not afraid to acknowledge that without Satyaa, he could not have become what he did.

Shantanu was wise, and he knew when to stop. Although dejected, he thanked Nishadraj for his time and earnestness and they both acknowledged that the deal was off. He told Devavrata about the meeting dispassionately, leaving out the conflict over the position of the CEO, but the latter understood the magnitude of the setback his father had suffered. In the next six months, he saw his father's confidence eroding and his interest waning. When media got wind of the attempted deal, he found him feeling a tinge of humiliation in being stood up by an underdog, as they had put it. Like a prodigal son, he resolved to set things right.

Devavrata set out to meet Nishadraj personally, armed with an in-depth study of the markets Bheeshma and Satyavati were dealing in and how the combined strength of the two companies could form a near-absolute monopoly. Nishadraj, for his part, was beginning to enjoy the attention he was getting from the father-son duo. Yet, when Devavrata reiterated the offer his father had made, he got annoyed at their persistence and told him about everything that had transpired during the earlier meeting. This included what had proved to be a deal-breaker: the position of the CEO. Devavrata was confused to note that his father had not mentioned this part of the argument.

As Devavrata reflected on the situation, he realized that Shantanu was caught between conflict as a father and as a businessman. On the other hand, he saw that Nishadraj was acting out of attachment for his enterprise and Satyaa was to him as he was to his father. As for Nishadraj, he quickly understood that Devavrata was a man who put the institution above him, and that could become his ultimate leverage. Devavrata, he noted, was fair-minded and sagacious, almost to a fault, and it was there to be used to allay his concerns, if that were possible.

Among the million things going on his mind, Devavrata was steadfast on his foremost interest – to do what was best for Bheeshma Group, which was his father's monument to his ambition. His vision was to take Bheeshma to heights it had never attained and acquiring Satyavati could prove to be a crucial step on that path. Besides, he could never tolerate his father feeling dejected on account of his attachment for him; for, had he not learnt from his father to dissociate feelings from judgment?

He decided that after all, it was not the position that count— it's your work and how much you can contribute to its growth that does. And he would always do that, whether or not he's the CEO. He'd still be the top guy in charge of the other business arms of Bheeshma, so what if he had to act in consensus with a board of directors, and occasionally with Satyaa. He strongly believed that his job was to build on his father's strength, rather than add to his personal clout.

And he came to a drastic decision, which he knew would upset his father to a great extent, but believed was the right thing to do. He assured Nishadraj, in black and white, that Satyaa would be made the CEO of the merger on the terms he had reiterated. Nishadraj was elated; he got all that he'd wanted. Then it made no sense to just stop there.

Nishadraj said that so far he had only gone on agreeing, had never had his demands heard. The only one he had here was to be granted permanent stake in the Bheeshma Group, and not just in its tech arm. For, only that would assure him of Devavrata's intention to keep his word. Devavrata, who did not mind backing up his decisions with concrete measures, saw no hassle in agreeing to this demand. This sealed their deal.

Nishadraj had achieved what he'd set out to, and much more than that. He considered Devavrata magnanimous. Devavrata saw the deal as a victory for his company, a tribute to his father. As for Shantanu, he could not have liked the taste of a pyrrhic victory—his son had willingly let go of all that he had spent his life building; all that he'd wanted only his son to have.

For, he could almost see the future in the mirror: Formidable as Nishadraj-Satyaa duo were, what would stop them from teaming up against his son in the future? Sure, he trusted his board of directors, but they were not his own blood—money and power could certainly influence loyalty, if not own it. With a permanent stake in his company, he knew Nishadraj was in it for the long haul, and knowing his foxy nature, in for the ultimate prize.

2.1 DETERMINANTS OF YOUR NEGOTIATION PERFORMANCE

2.1.1 Lack of Universal Approach in Negotiations

Just as conflicts have various intricacies, as we have discussed, no universal approach can be prescribed to resolve them. Similarly, though negotiation is a tool to be employed to those means, there is no universally prescribed way to use it.

In the chapter case discussed above, do you see just one conflict or many? If yes, how many and where? Can all of these be solved in the same manner? Take, for example, the conflicts between Shantanu and Nishadraj, between Nishadraj and Devavrata, or that between Shantanu's expectations as a father and his desires as a businessman, all three have different personalities, which have their own different interests and a different way of handling their conflicts. That is, even while Shantanu and Devavrata are on the same side of the negotiating table, their manner of trying to resolve the conflict is distinctly different, which is why they happen to obtain starkly different results.

Question: What makes Shantanu and Devavrata so different in negotiating with the same person, Nishadraj, with the same interests (acquiring the latter's company), and practically the same offer?

2.1.2 Concepts of Negotiating Style and Negotiating Ability

A simple answer to the above question maybe that even though Shantanu and Devavrata went into negotiations with Nishadraj with the objective of acquiring his company, they valued the latter's company in a different manner. For Shantanu, acquiring the company was a business conquest, while for Devavrata, it meant strengthening the company his father had established and pushed to incredible success. It was for this reason that Shantanu looked at his own fulfillment and that of his son's through the success of his company in acquiring Satyavati Enterprises, while Devavrata put the needs of the institution before himself, while also identifying the company as the image of his father's contribution to his life.

Thus, the actions and objectives of the father and the son may have concurred, what did not are the values they were operating from.

On Nishadraj's part, he was consistent in dealing with the father and the son, but since he saw a greater opportunity with Devavrata who was willing to go the extra mile to get what he wanted, he extended his list of demands, thus changing his strategy. For this part, between Shantanu and Nishadraj, the negotiation did not result in a deal, despite them being skilled negotiators, *or perhaps because of it*.

As the case shows, and as research has proved, the approach to solving any conflict takes into account the negotiator's personality, his disposition, his understanding of the situation, the strategy he chooses to apply in the negotiation, and his ability to negotiate. Therefore, it is important to recognize the following three factors affecting and being the key to determine one's negotiation performance: *negotiation style, negotiation ability, and negotiation strategy*.

In a research paper by Manish Kumar, Himanshu Rai, and Surya Prakash Pati, titled *An Exploratory Study on Negotiating Styles*, they have explained why these three constructs cannot be simply clubbed under 'negotiating skills'. With a study conducted in the Indian context, they found that negotiators had a predisposition to handle conflicts in a particular way, and these could be understood in view of certain personality traits. Further, while negotiations skills can be honed through experience and analysis, there was such a thing as *negotiating ability* that speaks about an individual's inherent ability to negotiate.

2.1.3 Determining Your Negotiation Performance

Measuring and comparing negotiations is similar to saying that since the ingredients are the same, the biryani takeaway from the *dhaba* around the corner is the same as the one your grandmother cooks (for the better or for worse). The ingredients may be the same, as well as the process, but not the result. Again, negotiation process is like the process of setting jelly, with no universally followed 'recipe' whatsoever.

Since there are numerous variables in negotiation activity—personality types, attitudes, priorities and goals, interpretation and understanding of the conflict which relate to *negotiating style*, communication, process and planning, which relates to *negotiating strategy* and an inherent quality that is seen to be enhanced by experience, among other factors, *negotiating ability*—it is next to impossible to determine the contribution of each factor in each stage of a negotiation.

2.1.4 Defining Ability, Style, and Strategy

Negotiating ability

Negotiating ability is the negotiator's inherent and acquired capacity in terms of the various aspects of conducting a negotiation activity. Our interpersonal success is decided by the manner in which we receive, explain, and present information while we negotiate.

Negotiating style

On an individual level, negotiating style is based on all the three elements of negotiation: bargainer characteristics, situation, and the negotiation process. Additionally, all the three bear the mark of the cultural and business environment they are currently in.

Negotiating style is the natural reaction of a person to a situation of conflict.

Negotiating strategy

The planning, process and the tactics one adopts in conflict resolution, which is in accordance with one's preferred style of negotiating is understood as negotiating strategy.

Negotiation strategy is the conscious choice that a person makes to resolve a conflict.

It may be useful to note here that when it comes to applying oneself in negotiating situations, negotiating strategy answers to '*what* is to be done?', negotiating style answers to '*why* it is to be done?' and negotiating ability answers to '*how* it is to be done?'. The three concepts are deeply interconnected as part of the process of preparing for a negotiation but these are distinct.

Negotiating is like a trek through a jungle. You know the destination but you also know that you will have to face *n* number of hurdles to get back to your camp. Being competent and proficient with your tools helps make your journey easier. If you plan your journey well in advance, it will increase your odds of making it through the jungle. Similarly, if you plan your negotiation well by anticipating the objections and preparing the counter strategies before getting to the table, your chances of prevailing will increase manifold.

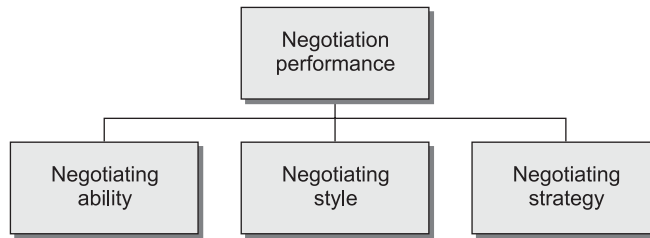


Figure 2.1 *Factors of negotiation performance*

In the given chapter case, in the final negotiation between Devavrata and Nishadraj, the outcome is positive according to Devavrata, since he achieved what he had set out to. But, Shantanu sees it as a negative one. He was content to have let go of the deal because it conflicted with his objectives and values. In the big picture that he sees, Devavrata paid a lofty price for the deal, while also making his position and future vulnerable. Thus, one can see that there is not one unique way of evaluating such issues.

Similar is the case in many modern-day multifaceted conflicts. You evaluate the outcome and the performance from where you stand in a conflict. But, that is not to say there are no general cues. Mostly, if negotiations slide off the table and land up in court or with a mediator or an arbitrator, it is because either or both parties are unhappy with the process or outcome.

For instance, you may feel let down when your spouse cancels your weekend dinner date for the second time in a row, to deal with some office crisis. Similarly, you may feel let down if a movie you went to watch with much anticipation does not meet your expectations. Now, the next time your spouse asks you out, there might be some trepidation from your end? Can you imagine going to watch a movie by the same director/producer with the same enthusiasm as you did the first time? Similar emotions are at play in both the situations: disappointment.

From boardrooms to marketplace to playgrounds and at the family dinner table, we should watch out for certain signs if we wish to avoid conflict. A manager would have to be good at spotting these and responding to them appropriately and in a timely fashion.

Our experiences influence our perceptions, which in turn shape our experiences. Conflicts develop as a result of not addressing the changing dynamics of a relationship as and when required. The key here is that, conflicts *develop*. And once there, we have two choices: to contribute so as to let it aggravate, to contribute so as to mitigate.

This book does not only address the white-collar worker who juggles relationships with paperwork in the face of crushing deadlines and targets. It is about everybody who intends to manage his/her abilities, skills, personality, attitude, ambition, values, relationships, and challenges to the best possible extent. We just need to learn how. And that is what we are trying to do here. When we talk about conflict and its management, and we recognize that all of us face conflicts in our lives, we all become managers here.

2.2 DIMENSIONS OF NEGOTIATING ABILITY

Research suggests that negotiating ability manifests itself through the five dimensions as given below.

Negotiating ability manifests itself through five dimensions: artfulness, diplomacy, detachedness, fair-mindedness, and sagacity.

Artfulness

This dimension represents the elements of shrewdness and calculatedness in the context of handling disputes. Some of the elements of this capability are: a great sense of timing (Badaracco and Ellsworth, 1991); the ability to select an appropriate place for conducting negotiations; knowing when and how to leave the bargaining table (ASHE-ERIC, 2001); political foresightedness (Saner *et al.*, 2000); the ability to manage expectations; and relationship-building capabilities (White, 2004).

Artfulness refers to the elements of shrewdness and calculatedness in the context of negotiation.

Diplomacy

This dimension represents the elements of tact, sensitivity and the ability to look at issues with acutely penetrating mental discernment. Some of the elements of this capability are: never indulging in harsh or cruel words (Henderson, 1990); not ignoring the accomplishments of the opposition; enhanced capacity for drawing inferences (Laborde, 1983); charisma; persistence; creativity (Moore, 1996); high levels of tolerance; reflective listening; and enhanced awareness of self and others (Antonioni, 1995; Hulbert, 1990).

Diplomacy refers to the elements of tact, sensitivity and the ability to look at issues with acutely penetrating mental discernment in the context of negotiation.

Detachedness

This dimension represents the elements of rational thinking and dissociating judgment from desires. Some of the ingredients of this capability are: control over anger (Moore, 1996); the ability to distinguish between subject and object (Bottles, 2001); devoid of ego; the ability to put things into perspective (Kindler, 1983); being mindful of own competence; and acting only after due deliberation (Moore, 1996).

Detachedness refers to the elements of rational thinking and dissociating judgment from desire in the context of negotiation

Fair-mindedness

This dimension represents the elements of selflessness and equality in the context of handling disputes. Some of the ingredients of this capability are: impartiality; ensuring participation of all parties in discussing disputes (Blancero, 1995; Mesch & Dalton, 1989; 1992; Naumann *et al.*, 1995; Rudman *et*

Fair-mindedness refers to the elements of selflessness and equality in the context of negotiation

al., 1995; Schwartz & Moayed, 2001); ability to develop consensus around a common vision; helping even the opposition to formulate their feelings (Moore, 1996); generating trust among all; and not bringing personal agendas into discussions (Gambrell, 1977).

Sagacity

This dimension represents the elements of seeking the right path, equanimity, and reliance on own counsel apart from the rulebook. Some of the elements of this capability are: steadiness of virtues (Hall, 1993); expertise (Moore, 1996); knowledge of interplay between economics, politics and culture; knowledge of key economic theories and practices (Saner *et al.*, 2000); maintaining personal integrity (Gambrell, 1977); having good oral and written communication skills (Neslund, 1988); and the capability for being resourceful in establishing specific techniques or procedures that help conflicting parties to alter their relationships (Lee, 1998).

Sagacity refers to the elements of seeking the right path, equanimity and reliance on own counsel in the context of negotiation.

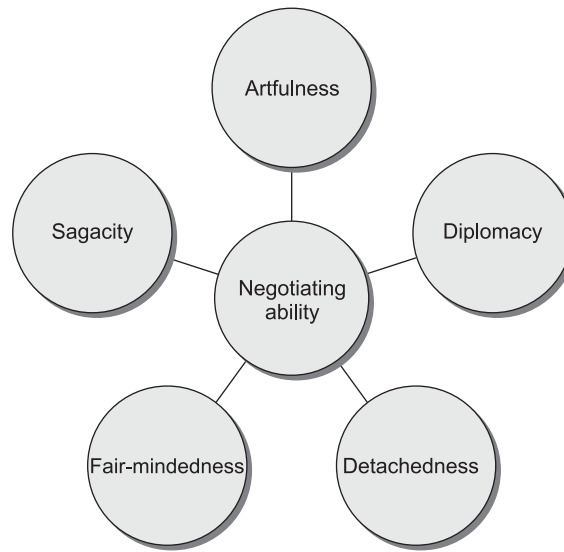


Figure 2.2 *Negotiating ability dimensions*

This dimensionality of negotiating ability is also brought out by the analysis of *Mahabharata*, which is one of the two epics (the other being *Ramayana*) on which the basic tenets of Hinduism and the resultant Indian culture are predominantly based. Besides, it can be seen as an allegorical representation of universal human situation in all its manifestations, ramifications, and intricacies. The story has been passed down in a classical canon of Sanskrit verses that are 100,000 stanzas (*shlokas*) long. Sometimes called the fifth Veda, the *shlokas* of *Mahabharata* are compiled into 18 chapters. The *Mahabharata* contains virtually all the lore and legends of the classical Hindu traditions. It contains a vast pool of contextual knowledge and

narrates the codes of law—moral, ethical, natural. The core theme of *Mahabharata*, however, is the great battle that was fought on the field of *Kurukshetra* between the five sons of King Pandu and their allies on one side and the hundred sons of King Dhritarashtra, with their allies, on the other side. The battle was the culmination of a long history of struggle and diplomatic maneuvering, and it involved virtually every tribal king and every powerful city-state in Central and Northern India at the time. It was a tragic war that pitted brothers against brothers, sons against fathers and uncles, brave noble men against brave noble men. Nearly all of the best men died in the long battle. The *Pandavas*, the sons of King Pandu, survived, but there was no victory; for, the war had destroyed the world that they knew, and the emptiness of what they had won haunted them for the rest of their lives. *Mahabharata* has a riveting plot and a compelling dramatic structure. Its characters are complex and real, with a depth of personality that is insightful. For the purpose of this study, the original version of *Mahabharata* written by *Veda Vyasa*, translated and endorsed by Sahityacharya Pandit Ramnarayandutt Shastri Pandey 'Ram' (1988), has been taken.

On the issue of conflict management, the *Mahabharata* suggests the strengths that contribute to an individual's dispute-handling capability. These include not succumbing to grief or misfortune, impartiality, the ability to consider happiness and grief as transitory, modesty, a good reputation, control over anger, forgiveness, the ability to not seek benediction or bows, fearlessness, a peaceful mind, an eye to what may happen in the future, ability to concentrate hard and long, humility, no reliance on chance or destiny, action orientation, not ignoring the accomplishments of the opposition, steadiness of virtues, good communication skills, the ability to keep intended acts and lines of action hidden from others until they have been put into execution, dissociation of judgment from desire, regarding nothing as insignificant, not getting agitated if slighted by others, cognizance of the cause and effect of all acts, ability to subjugate opposition by creating dissension among them, never consulting with flatterers, not disregarding even a weak opposition, mindful of one's own competence, distinguishing between subject and object, enhanced capacity for drawing inferences, and belief in action without getting attached to it or its fruits.

A closer look at these issues further strengthens the conceptualization of the five dimensions of the Negotiating Ability. For instance, the ability to subjugate opposition by creating dissension among them reflects the artfulness dimension, while compassion and humility denote the fair-minded dimension. While an enhanced capacity for drawing inferences and not ignoring the accomplishments of the opposition represent the diplomatic dimension, considering happiness and grief as transitory is the essence of detached dimension. Similarly, good communication skills and an image of personal integrity reflect the sagacity dimension.

Summary

A successful negotiation requires the parties to come together and hammer out an agreement that is acceptable to all. However, it should be noted that every party on the negotiating table has a distinctly different manner of trying to resolve the conflict. The approach to solving any conflict takes into account the negotiator's personality, his disposition, his understanding of the

situation, the strategy he chooses to apply in the negotiation, and his ability to negotiate. There is no universally prescribed or unique way to use negotiation as a tool. There are three main factors that determine an individual's negotiation performance: negotiation style, negotiation ability and negotiation strategy. Negotiating strategy answers to 'what is to be done', negotiating style answers to 'why what is to be done is to be done' and negotiating ability answers to 'how it is to be done'. While negotiations skills can be honed through experience and analysis, negotiating ability speaks about an individual's inherent ability to negotiate.

If negotiation is well planned and the parties anticipate the objections and prepare the counter strategies beforehand, it is more likely for them to achieve their desired objectives. Further, there are numerous variables in negotiation activity such as personality types, communication, process, planning, and so on, which impact the various stages of negotiation.

Discussion Case

ABC is a public sector enterprise in the business of oil marketing. They cater to what is typically referred to in the industry as downstream operations. ABC is one of the country's most valued and respected oil marketing company and has been in the business for almost 60 years. The government commissioned it in 1957, in order to cater to the refining, distribution and marketing of oil produced in the country. The wholly owned government entity went public in the year 1993. 57 per cent of ABC's shares are still held by the government, and institutional investors hold a majority of the shares.

ABC, being in a crucial sector for the country's economy, has traditionally been under the administrative control of its ministry. The top management of ABC has to work in accordance with the directives from the government, exercised through the respective Ministry. Targets in terms of refining capacity, crude output, sales and distribution, new projects, safety management, CSR initiatives are jointly set by the top management in coordination with the Petroleum Ministry through a Memorandum of Understanding signed between them on a yearly basis. An instruction or requirement set forth by the Government would be accorded top-most priority and would be implemented on war footing. The meeting of MoU targets is linked directly with performance-related pay of the whole organization. In the case of the top management, meeting the MoU targets directly affect transfers, promotions and performance-based pay and therefore, there is tremendous effort expended towards meeting the mandates set forth by the Government.

An important MoU target, gaining renewed significance and importance is the Corporate Social Responsibility of Corporations. The Indian Government, through Section 135 of the Companies Act and through subsequent amendments to the Act, has set forth a clear mandate on CSR targets for corporations based on their net worth, turnover or net profit—(1) Every company having net worth of ₹ 500 crore or more, or turnover of ₹ 1,000 crore or more or a net profit of ₹ 5 crore or more, should spend at least 2 per cent of its average net profit for the immediately preceding three financial years on CSR activities.

ABC Ltd. has a net profit of ₹ 10,000 crore and has been steadily growing year on year. By mandate, they have to achieve a minimum CSR spending of ₹ 200 crore for this financial year. ABC has a separate CSR division with its corporate team based out of New Delhi, which coordinates CSR activities across regions where ABC operates. Each region has a CSR team, which reports its progress to the corporate team. The corporate CSR team hands the targets down the line to the regional teams. The targets flow from the top to the bottom and information in the form of reports or feedback is sent from the bottom to the top.

Parth joined ABC in 1989 and has been in the corporation for over 25 years, serving in various capacities as a Human Resource Personnel across various locations. Parth is renowned for his reputation as a hard taskmaster and an achiever par excellence. He was known for having his way in most circumstances and had earned a lot of friends as well as enemies over the years. Parth's undying thirst for power and challenge catapulted him into the echelons of the top management and the ministry and he took over as the chief of the CSR activities across the organization about nine months ago.

Known for his stellar ability at turning a situation over, Parth took over an under-achieving, poorly managed, under-motivated team and within a period of eight months he managed to turn it into an energetic, streamlined entity. His frequent interactions with the top management and the ministry had gained him the confidence of both and he was considered a close and reliable aide of the right people in the right places. There were whispers in the corridors of power that there were chances of him being promoted shortly and also being considered for the post of Director of Human Resources.

The main drawback being faced by the team and the organization, as Parth understood it was the lack of focused manpower for the CSR section. There was a low sensitization on CSR issues and most of the employees handling CSR were overburdened with other work. CSR was an additional chore allotted to their already existing job profiles. A lot needed to be achieved on this front and it involved a lengthy process of discussion and layers of approvals.

During the ninth month of Parth's leadership, there was an emergency meeting with the ministry. The government's focus towards Clean India Project was intensifying and there was pressure on the Ministries to produce results immediately. Representatives of CSR teams from various corporations were invited to an emergency meeting and targets were being set.

Parth knew his section was overburdened and under staffed; there was severe manpower shortage and nothing in excess of ₹ 30 crore could ideally be accepted as a target in terms of projects to be achieved. Their projects were spread across India, and apart from the spending the allotted sum of money, the process of implementation and follow up was long and cumbersome. There was little or no focused manpower for the follow up activities and a lot more manpower and team building was needed before any unrealistic target could be accepted. However, there were other corporations falling under the ministry, which also had the might and the resources to achieve the overall target set forth. Also playing on Parth's mind was his closeness with the ministry, his career, which was ready to reach its zenith before he retires, his reputation as an aggressive go-getter and his insatiable appetite for power.

As the meeting progressed, the personal reputations of the representatives preceded them. The members of the ministry, being in close association with all the organizations, clearly knew the performers from the non-performers, the achievers from the non-achievers. They were aware of the professional and personal stake involved for each member in the meeting. Being in the position of power that they were, they were willing to stop at nothing to offload the target on to easy targets.

There were some corporations that immediately communicated their inability to meet an unrealistic target, clearly delineating their constraints and their limitations in terms of the organizational capacity. By the end of the meeting, Parth had signed on the paper for a target expenditure of ₹ 100 crore to be spent within the next one month on a project focusing specifically on the Clean India Initiative.

Parth was aware that there was a tremendous resource constraint in terms of manpower and the target would place his team under undue duress for the next one month. He had, however, in his opinion, managed to salvage his reputation and the various power equations he had built over time.

Points to Ponder on

- While Parth is known for having his way in situations generally, why did he sign on the dotted line for much more than what the organization can achieve? Were there typical personality factors that affected his ability to negotiate?
- While negotiating, Parth was torn between his personal and professional ambitions and lost the bigger picture of negotiating a better deal for the organization from the point of view of resources. Should Parth have instead simply assumed the role of the Company's representative and put forth the situation more in terms of facts and figures?
- While the other party in this case was ready with enough information on the needs and abilities of the corporations and their representatives and were ready to arm twist the chosen representatives, could Parth have been better prepared and used his personal influence instead to request for a collaboration with other corporations with more might, thereby reducing the burden on his team alone?
- From an organizational perspective, is Parth's acceptance of the target a healthy sign in the long run?

Activity

A group of five people is required for this activity.

One of them acts as the Team Lead. Usually, the year-end bonus is divided among the team, with the Team Lead getting 50 per cent and the rest being divided equally among members, at 12.5 per cent per member. Of late, the management has noticed disappointment with this scheme. Hence, they have left it on the teams to decide how they want to divide the bonus.

Rules

Any kind of distribution will be acceptable to the company if it meets following criteria:

1. The Team Lead should get at least 5 per cent more than any individual member.
2. All members should agree to the Bonus Sharing.

If a deal is not reached, then the Team Lead will get 20 per cent while rest of the four members will get 5 per cent bonus each. The rest 60 per cent will remain unpaid.

Exercises

1. Multiple Choice Questions

- i. What are the skills a person should use during negotiations, to influence the way other people think?
 - a. Persuasion
 - b. Ability to empathize
 - c. Ability to create a win-win situation for the parties
 - d. All of these
- ii. When your credibility in a negotiation is compromised, what steps do you take to rectify the situation?
 - a. Strengthen your bargaining power
 - b. Educate yourself on all the issues involved
 - c. Both a and b
 - d. None of these
- iii. Trina is a software developer at Canvas Inc. She manages a team of 7 people but does not seem to be quite comfortable working with them. What should be done in such a situation?
 - a. Put the team first
 - b. Not appear easily intimidated and seek to resolve differences
 - c. Not personalize conflicts
 - d. All of these
- iv. Every participant in a negotiation has a personal agenda. Those agendas are hidden unless they are shared with the group and most people don't openly share personal agendas. How do you uncover another person's hidden agenda?
 - a. Ask questions
 - b. Observe the non-verbal reactions
 - c. Gather and digest the responses to develop a basic understanding and appreciation of the other person's perspective
 - d. All of these
- v. What all does it take to become a skilled negotiator?
 - a. Investing the time and effort to properly research and prepare for each encounter
 - b. Building an arsenal of negotiating tactics and strategies to deploy when needed

- c. Firmly grasping the attitude that you will win before you sit down to negotiate
 - d. All of these
- vi. In the case of corporate negotiations, when having a team is necessary, what steps should you take to ascertain your role as a team manager?
 - a. Discuss the role, qualifications, and specific areas of expertise of the team with each new member
 - b. Collectively establish the goal for the team and the negotiating parameters
 - c. Prior to each formal negotiating or settlement session, meet with the team doing the negotiating and establish the goals and objectives of the day's discussions
 - d. All of these

2. Fill in the Blanks

- i. Personality types, attitude, priorities and goals, interpretation and understanding of the conflict relate to _____.
- ii. Communication, process and planning relates to _____.
- iii. An inherent quality that is enhanced by experience, among other factors relates to _____.

3. True or False

- i. The approach to solving any conflict takes into account the negotiator's personality, his disposition, his understanding of the situation, the strategy he chooses to apply in the negotiation, and his ability to negotiate.
- ii. Being passionate about the negotiation establishes one's conviction and commitment to the process. No argument is properly delivered without conviction and passion.
- iii. Negotiators who take the initiative to become informal group leaders are most likely to have the best track record of achieving their goals
- iv. Conflicts develop as a result of addressing the changing dynamics of a relationship as and when required

4. Match the following elements with what they answer to

i.	a. Negotiating strategy	1. Why it is to be done?
	b. Negotiating ability	2. What is to be done?
	c. Negotiating style	3. How it is to be done?

ANSWER KEY

1.	i. d	ii. c	iii. d	iv. d	v. d
	vi. d				
2.	i. Negotiation style	ii. Negotiation strategy	iii. Negotiation ability		
3.	i. true	ii. true	iii. true	iv. false	
4.	i. a-2, b-3, c-1				

Exhibit 2.1**Illustration from Mahabharata**

The case in the beginning of Chapter 2 is, in fact, a creative adaptation of an incident from Mahabharata. One of the incidents of dispute that involved Shantanu (the King of the land), Devavrata (Shantanu's son, the heir-apparent to the throne, later known as Bheeshma), Nishadraj (the Chief of a hunting fishermen tribe), and Satyawati (the daughter of Nishadraj) is being analyzed here for illustration. This dispute is taken from the *Adiparva* of *Mahabharata*.

While riding through his kingdom one day, Shantanu saw a beautiful girl on the path. He enquired who she was and who her father was. The girl replied that she was Nishadraj's daughter and she rowed the boat across the Ganges with her father's permission. Shantanu desired this beautiful and sweet Goddess-like girl. He met her father and asked for his daughter's hand. Nishadraj answered, "Since the time of my daughter's birth, I have always thought that she should be married to a man of superior birth. However, I have a condition that you would need to fulfill before I give my permission." Shantanu replied, "First, you tell me what your condition is. Thereafter, I will decide whether I can fulfill it or not." Nishadraj said, "The son who shall take birth from my daughter's womb should sit on your throne; not any other prince." However, Shantanu loved and admired his son Devavrata and thus did not grant Nishadraj his wish. Burning with desire for the girl, Shantanu returned to his palace and pined away for her in his thoughts. Devavrata noticed the pensive mood of his father and approached him one day when he was lost in his thoughts. He enquired, "Father, you don't seem to be well these days and you look weak and ashen. What is the matter with you?" Shantanu replied, "Son, I am thoughtful about the future. You are my only son and though you are worth more than anyone to me, it would be tragic if something were to happen to you. Our lineage would disappear that day." However, Devavrata was not satisfied with this answer and thereafter he approached the old minister who told him the real reason behind the king's sorrow. Further, he got the details from the king's charioteer and then went to meet Nishadraj in-person, with some ministers. Nishadraj repeated his condition to Devavrata. Devavrata promised Nishadraj that the son born to Shantanu and Satyawati (Nishadraj's daughter) only would sit on the throne. However, Nishadraj further told Devavrata, "I trust your word. However, when you have your own children, they may not keep this word". Devavrata replied, "I have already renounced the kingdom. Now I take the vow of eternal celibacy. I shall never marry in my lifetime." Nishadraj immediately gave his consent for the marriage of Shantanu and Satyawati, while Devavrata came to be known as Bheeshma thereafter, for his tough oath.

The four main characters in this dispute are Shantanu, Nishadraj, Satyawati and Devavrata. The nuances of this incident can be understood in the context of the interplay between desire, ambition and perceived fairness. Shantanu desired the girl, but at the same time, he did not want to do injustice to his son Devavrata. Torn between these conflicting emotions, he was undecided about his future course of action. Nishadraj saw this as an opportunity to realize his ambitions through his daughter as well as secure the future of her children. He showed the elements of artfulness and diplomacy in his dispute-handling capability. The elements of having farsightedness and not relying on chance or destiny are evident in his style. The approach of Nishadraj indicated that he had an upper hand in the dispute and could push his terms and conditions. However, he

approached this with a lot of tact and pushed Devavrata gently towards his intended goals. On the other hand, Devavrata showed the elements of fair-mindedness, detachedness and sagacity in his dispute-handling capability. He realized that the future of the kingdom was jeopardized since the king was not taking interest in the matters of the kingdom. While he could have easily replaced the king, he looked at the issue from a detached perspective, taking into account the cause and effect of all his actions. He displayed elements like a complete control over his desires, not succumbing to grief or misfortune, steadiness of virtues, and an enhanced capacity for drawing inferences to understand the ramifications of Nishadraj's demands as well as the consequences of not accepting his demands. With his vision and the ability to generate trust, he handled the dispute by giving supreme sacrifices himself, though not with an intention to seek benediction or bows. Moreover, the incident brings out the plausibility of social class as one of the correlations of dispute-handling capability, given the different approaches of Nishadraj and Devavrata. Further, Bheeshma shows fair-mindedness in dispute-handling capability throughout the course of *Mahabharata* and this allows the study to make some generalizations about his capability. The incident thus brings significant insights into understanding negotiating ability and its derivatives better.

The following abilities can be gleaned from the analysis of this incident:

- Farsightedness
- Being cognizant of the cause and effect of all actions
- To generate trust among all
- Not relying on chance or destiny
- Knowing that happiness and grief are transitory
- Being steady in one's virtues
- Control over the five sensory organs
- Enhanced capacity for drawing inferences

Exhibit 2.2

Scale to measure Negotiating Ability

- ☐ I would always select an appropriate place for conducting negotiations.
- ☐ I regard nothing as insignificant.
- ☐ I know when to leave the bargaining table.
- ☐ I have adequate political foresightedness.
- ☐ I have excellent relationship building capabilities.
- ☐ I have an enhanced capacity for drawing inferences.
- ☐ I am adept at reflective listening.
- ☐ I use personal magnetism to handle issues.
- ☐ I have an enhanced awareness of self.
- ☐ I have the ability to understanding the views of both sides without necessarily agreeing totally with either.
- ☐ I am creative in my approaches.
- ☐ I have excellent persuasive skills.

- ☐ I know that happiness and grief are transitory.
- ☐ I dissociate my judgment from my desire.
- ☐ I have the ability to distinguish between subject and object.
- ☐ I keep attention focused on the real issue.
- ☐ I do not bring my ego into discussions.
- ☐ I have the ability to diagnose differences accurately.
- ☐ I have the ability to use appropriate behaviors.
- ☐ I always seek clarification when required.
- ☐ I am good at lateral thinking.
- ☐ I have a good sense of humor.
- ☐ I ensure participation of all parties in discussing disputes.
- ☐ I have the ability to generate trust among all.
- ☐ I have excellent teaming skills.
- ☐ I have the ability to develop consensus around a common vision.
- ☐ I have the ability to anticipate problems.
- ☐ I am compassionate.
- ☐ I accord equal status to all disputants rather than the hierarchical status.
- ☐ I am steady in my virtues.
- ☐ I promptly assess information available to me.
- ☐ I am always positive in my attitude.
- ☐ I always present and maintain an image of personal integrity.
- ☐ I have good communication skills.

Source: Rai, H (2013)



Negotiation Style

Learning Objectives

After studying this chapter, you will be able to

- Define negotiating style
- Outline the four major styles of negotiating
- Learn how to develop effective negotiating style

THE IMPORTANCE OF STYLE

King Akbar was enraged with the royal astrologer after the latter predicted that all the King's loved ones would die in front of his eyes. A victim of his own truth, the astrologer was thrown out of the palace. He went to the King's most sought-after minister, Birbal, who was known for his wits and sharp intelligence. Birbal appreciated the man for standing by his prediction even in the face of such punishment, but advised him to make one small change. Armed with this suggestion, the astrologer begged one last opportunity to see the King with regard to his latest prediction. The King granted him permission and the astrologer spoke of the glory the king would attain in future, adding, "Your Majesty is blessed with a long, glorious life, so that he outlives his loved ones." The king was pleased, and the astrologer was back into royal graces.

3.1 WHAT IS NEGOTIATING STYLE?

In literal terms, the word 'style' correlates to manner. And, we have been witness to the power of style at work when an attractive, glib, and sincere-looking salesman gets us to first look at,

and then buy something we never knew we even needed—things like a stress ball, or that nth insurance policy, or even signing up on a petition for an issue you have no stand on.

Style often works in unintended ways; pop stars—with their loud, radical looking attire, bankers—looking and behaving staid, serious, and earnest — even dressing so. And, there is the typical designer, looking every bit casual. Such generalizations come with their share of exceptions, but they go a long way in providing a context to our interactions. If these people look or do anything unlike what is expected of them, they are sure to get noticed. Why?

It is because style delineates people. And, at times, this can become a viable tool to get the desirable reaction out of others.

Here, the content of the matter does not change. What changes instead, is the manner in which it is presented.

The above-mentioned anecdote from the Indian lore of Akbar and Birbal is a perfect example of this. Such stories are found in abundance in our day-to-day life.

Have you tried to negotiate with a showroom, a hotel or even a government office, only to be greeted with indifference, until you decide to mention a strong reference to the attendant officer or employee, and witnessed a complete change of the style of interaction?

3.1.1 How does Style Work?

Style works and that is why, those who realize its power use it to their advantage. As a concept, it is more accessible than ability because it entails a careful understanding of the situation and choosing the appropriate manner in which to respond. Style and ability are different in the sense that, ability of a particular kind would make an individual more adept, effective and predisposed to choosing a particular style of negotiation.

For example, as a senior executive in your company, you are known to drive an aggressive bargain, and a hard taskmaster. But, unfortunately, one of the juniors in your department was found to have unwittingly committed a malpractice—divulging client information to an outsider, compromising your company and the client's position on an upcoming deal.

Your client is enraged, threatening to not only cut off the deal, but also drag you to a legal forum. You fire the guilty junior manager, do the required damage control, and even tender an apology. And yet, the legal action would result in negative publicity, adversely affecting the reputation for your company and your name in the industry. You accept the mistake, and the harm done, but are incensed with the client for their threat to resort to legal means, targeting your decade-long business relationship.

What do you think will give you the best shot over resolving the issue?

Amicably talking to the client, allowing them to let off steam, and reminding them of your long-term relationship, even offering certain advantages in future business dealings to make up for the loss.

Or, picking up the gauntlet and moving to stop payment on the last deal you struck.

Here, you would be choosing between two styles: amicable, as in the first option, and aggressive, as in the second. You may have a predisposition towards the aggressive style from your nature, but you may still be able to adopt the amicable style, wherein, if you choose to

keep within the correct limits of aggression, you may even come across as earnest. As you can see in the example, your style is affected by not just your personality characteristics, but also the situation you are faced with.

Now, suppose that the said client goes straight to a legal forum with a complaint against you, without giving you a chance to explain yourself in confidence, and address the problem internally, would you still be amicable?—Probably not. Therefore, the process of negotiation matters too. If the client resorts to the legal process of settling a case, you also choose a style befitting that situation.

3.1.2 Negotiating Style as a Construct

Style, as a concept, has been difficult to study. First off, there is no consensus among researchers regarding the number of dimensions of styles of negotiation. Moreover, no scale on the construct has been validated.

Rai, Kumar & Pati, in their research paper titled *An Exploratory Study on Negotiating Styles: Development of a Measure*, developed a scale to measure negotiating styles of people and tested it in the Indian context. On analysis, the scale showed robust psychometric properties.

According to the scale, there are four main negotiating styles:

1. Analytical
2. Equitable
3. Amicable
4. Aggressive

The findings from this research can be used to identify an individual's negotiating style, and in turn, understand which attributes contributed to that. Consequently, it would also point which attributes should be cultivated in order to enhance a particular style of negotiation.

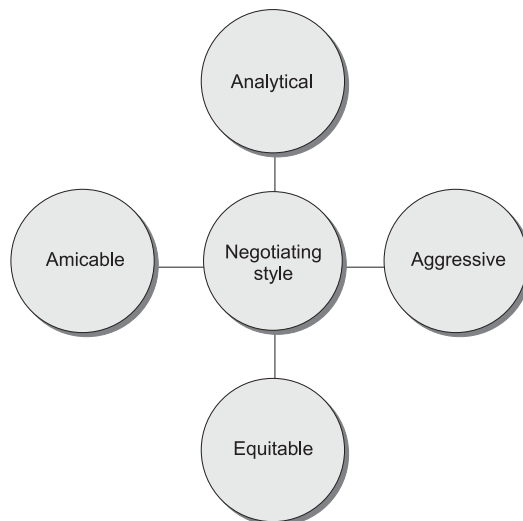


Figure 3.1 *Negotiating style dimensions*

For example, people who usually adopt an aggressive style of negotiation owing to their competitive nature may choose to go with **amicable style** when dealing with people they have a personal/family connection with, where relationships rather than competition would matter.

Style has earlier been confused with other constructs, including strategy. For example, researchers Cellich and Jain classified negotiation style into the following five categories: dodgers, dreamers, hagglers, competitors, and problem solvers. According to them, the problem-solving approach was to be the best style to take to a negotiation.

Negotiation Style refers to the natural reaction a person exhibits when faced with a situation of conflict.

But, this approach is about taking into account all possible outcomes and choosing which one would work the best. It is a strategy, not a style. Moreover, problem-solving approach has also been seen by various researchers in different ways; it has been labeled as integrative bargaining strategy, cooperative orientation, problem-solving orientation, and representational bargaining strategy over the course of time.

3.1.3 Personality and Negotiating Style

Personality attributes determine, in a very significant way, how an individual reacts and responds to a particular situation. In turn, personalities of parties involved in any negotiation 'shape' the situation itself. It is a two-way street.

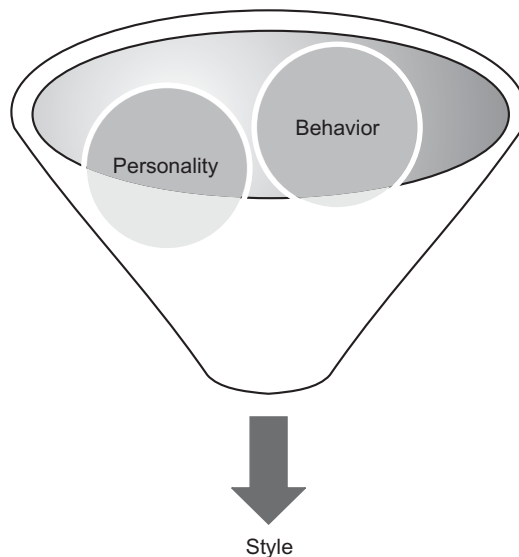


Figure 3.2 Antecedents of negotiating style

Negotiations are basically conflicts, and conflicts are basically interpersonal interactions. From a very early age, our interactions with those around and our environment influence our thoughts, beliefs, and personalities. As such, we try to get what we want from any interpersonal interaction through a trial and error method, which, in turn is also affected by our personality—that inherent nature, unique to every individual. And yet, all our experiences also end up shaping and influencing our personality.

Negotiating style, therefore, is that aspect of our personality, which relates to the sum total of ways in which we react to and interact in interpersonal situations. But, personality is not the only aspect at play here. Style also takes into account the behavior of an individual.

Behavior is understood as the manner in which we conduct ourselves, aiming to satisfy a particular need orientation. This need could be about seeking approval, seeking power, influence, control, or intimacy.

For example, haven't we seen a person egoistic or arrogant enough to aggravate his peers and yet grovels and flatters his seniors for seeking a favor? He sets his ego or arrogance aside even when he thinks nothing much of the person in power over him, just so long as his needs are met. For this person, subordinating to someone else does not come naturally, nor does his personality allow him to praise or flatter anyone but himself; but in some rare cases of extreme need, he will put aside his ego and prostrate himself. Thus, for this person to negotiate with someone who has power over him, he would be wise to use the amicable or analytical style of negotiation, and most definitely not aggressive style.

3.1.4 Defining Negotiation Style

Negotiation style has been defined as, "the sum totals of ways in which a person reacts to and interacts in interpersonal situations with the intention to satisfy one's inherent need orientations." Here, as you can see, the first part refers to the personality aspect, while the second refers to the behavior aspect.

That is to say, from the point of view of individual negotiator, style includes personality attributes, the negotiating situation he or she faces, all the parties involved directly and indirectly in the situation, and also the cultural influences and/or differences.

Personality attributes determine in a very significant way how an individual reacts and responds to a particular situation. In turn, personalities of parties involved in any negotiation 'shape' the situation itself.

3.2 FOUR MAIN NEGOTIATING STYLES

Now, we come to the four main negotiating styles that have been measured, and its scale validated in the context of the Indian workplace. These styles are given as follows.

Analytical

An individual analyses the information available and the various aspects of the situation carefully, pays thorough attention to details, has a clear affinity for hard facts and sound logic, weighs all the alternatives ahead of time. He/she also has a clear picture of what he wants from the dispute, and all his analyses point at creating a situation that would facilitate the achievement of desired objectives. Sometimes, this approach may prove to be too direct or too mechanical in a world where having a psychological edge proves fruitful.

A person with analytical style analyses the information available and the various aspects of the situation carefully, pays thorough attention to details, has a clear affinity for hard facts and sound logic, weighs all the alternatives ahead of time.

Equitable

This individual stresses on mutual goal setting, and does not hesitate in asking for help or cooperation from the other party in an effort to work together, looking for solutions that benefit both. Such an individual has the ability to tie proposals to common values of the two parties and emphasizes worthwhile causes. He/she is very interested in the process and stresses on the underlying cause serving as motivation for a particular goal, rather than the goal itself. He/she may end up conceding too much for the satisfaction of 'working together'.

A person with equitable style stresses on mutual goal setting, and does not hesitate in asking for help or cooperation from the other party in an effort to work together, looking for solutions that benefit both.

Amicable

This individual has the ability to sense how people are feeling and might be thinking, is considered socially skilled and sociable, and has a personal charm that serves to make people comfortable around him/her. For such an individual, maintaining a relationship is more important than the espoused goal.

A person with amicable style has the ability to sense how people are feeling and may be thinking, is seen as socially skilled and sociable, and carries a personal charm that serves to make people comfortable.

Aggressive

This individual values accomplishment, takes advantage of opportunities, is quick to act and likes challenges, responding with a competitive spirit. He/she actively comes up with new ideas, and for such an individual, winning is more important than achieving a particular goal. It may not be surprising if the individual surpasses the targets set, while relationships take a backseat.

A person with aggressive style values accomplishment, takes advantage of opportunities, is quick to act and likes challenges, responding with a competitive spirit.

3.2.1 Style: A Multifarious Concept

The four negotiating styles mentioned above describe the general approaches that we, as individuals, undertake to deal with disputes. But, at any time during a dispute, there is a high chance that more than one style is at work.

For example, an individual using the equitable style of dispute resolution may try to put in extra effort to come across as amicable, in order to win their trust, while entirely focused on the common grounds between them. Similarly, a person prone to using the aggressive style may choose to veer into the analytical territory to carefully assess the situation, to see if he can maximize his gains further.

The above examples identify very closely with the manner of Devavrata and Nishadraj respectively, in the exhibit referred in Chapter 2.

Devavrata, while mainly equitable, was also amicable in his approach. He respected Nishadraj's stand as a father, and valued the goal of ensuring his father's happiness over his personal ambitions. At some point, it appeared like Nishadraj's cold calculations are getting the better of Devavrata's intelligence as he pries the kingdom out of the hands of the Crown Prince.

Nishadraj's style seems to be aggressive. He thinks nothing of the highly valuable relationship he would be getting into with the Ruler of his Land, if his daughter married him. Instead, he focused on getting the best out of the situation for his daughter and her future offspring.

His competitive attitude sees a setback when the king, Shantanu, rejects his conditions. Shantanu is being equitable at the time and his main concern was his son's future and that of his kingdom. But, his feelings for Nishadraj's daughter Satyawati cannot be quelled.

But, Nishadraj finds himself back in the saddle with Devavrata's goal of making his father happy. Driven by this goal, Devavrata is equitable, almost to a fault, giving up the claim to the throne and even making it plain that it was Satyawati's future children who would inherit the throne.

Nishadraj wins this dispute hands-down in favor of his daughter. He is not only aggressive, but is analytical too. He assesses the situation every step of the way and goes on piling up demands, while giving rational reasoning to back them up.

As far as being equitable goes, Shantanu does well, Devavrata does more than well, but the latter fails to guard the objectives he was brought up and trained to achieve: to inherit the kingdom and govern it well.

3.2.2 Determining Personal Negotiating Styles

As an individual negotiator, it helps to understand the concept of negotiating style because it helps us in a dual way—it helps us become aware of and understand our own style. Thus, we may be in a better position to watch out for the pitfalls of our own approach in a particular negotiation process.

Secondly, we would be able to identify the style adopted by the other party, and it may help us get a closer insight on what the exact motivations of the party might be. Also, we may be able to figure out the most appropriate way to respond to that style.

3.3 DEVELOPING EFFECTIVE NEGOTIATING STYLE

Developing an effective style is more about using the style appropriate to the situation or the context. Since style is a natural reaction one has to a situation of conflict, the term “appropriate” is rather relative. What negotiators can do is to inculcate an ability to adapt to a particular style as and when needed. This requires an in-depth understanding of the context of the negotiation, followed by an analysis of what negotiation style would serve the negotiator best. Developing the appropriate style then becomes a four-step process, which we can call the 4A process: Be Aware of your natural reaction; Acknowledge that this is not the appropriate one in the given context; Accept that it needs to be changed; follow up with Action to change it by taking small steps towards it. The four steps of awareness, acknowledgement, acceptance and action are always useful in changing one’s natural predispositions in general.

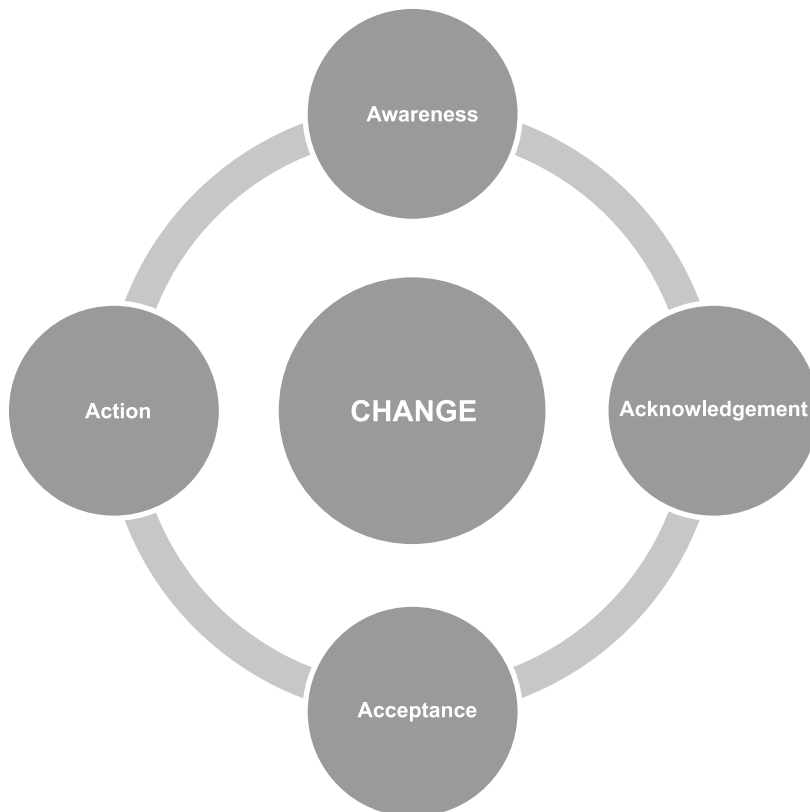


Figure 3.3 Process of change

For instance, you realize that you are very aggressive in most situations and thus, most of your negotiations turn out to be distributive, ending in a win-lose mode. The first thing is to be aware of this issue. Seek feedback from people you negotiate with (with those who you feel comfortable enough to do so), and find out if this problem really exists and in what ways it manifests during negotiations. Next, acknowledge that it indeed is a problem by reflecting on the times it has messed up your negotiation or impacted the relationship with the other party. Once you have mentally acknowledged the problem, accept that you need to address it by telling yourself (auto suggestion) repeatedly to do better as a negotiator; you need to address this issue. Finally, put this into action by taking small steps in your subsequent negotiations; for instance, by listening more than you speak, offering an extra concession, smiling at the other person more often etc. So the first three cognitive steps, and the fourth, a behavioral step, will help you develop an appropriate negotiating style and can help you in preparing for every negotiation.

Summary

Negotiating style entails a careful understanding of the situation and choosing the appropriate manner in which to respond. The chapter focuses on the various negotiating styles and also on the attributes that should be cultivated in order to enhance a particular style of negotiation. The four main negotiating styles validated in the context of Indian workplaces are: Analytical, Equitable, Amicable and Aggressive. These styles relate to the person's behavior and to the ways in which he/she reacts to and interacts in interpersonal situations. Style also includes one's personality attributes, the negotiating situation, the direct and indirect parties involved and the cultural differences/influences. It should be noted that the selection of negotiating style depends upon the situation and an individual can always use more than one style to maximize his/her gains while handling a dispute. Also, in a particular negotiation process, it is always beneficial to identify the style adopted by the other party in order to respond in the most appropriate and timely fashion, thereby achieving the desired outcomes.

Discussion Case

As an officer from the Revenue Department, Shrinath has worked his way up in the Collectorate and now serves as the *Tehsildar* of his district. Shrinath is well educated and had always wanted to look out for better opportunities outside but circumstances kept him tied to his job at the Collectorate with a decent income and the essential contacts to support his family. He was a favorite among his colleagues, popular for his charming ways and his smiling demeanor, which never failed to impress.

After serving with the District Administration for around 12 years, a company in the construction business with considerable stake in the district approached Shrinath with a job offer. They had often interacted with Shrinath for acquisition of land, as some of the land they purchased for crucial government contracts involved the role of the *Tehsildar*. Impressed

with his charm, amicability and his ability to handle any situation with a pleasant smile and a gentle, yet convincing response, they were keen on making him a part of their company. For Heera Builders, it was a masterstroke, a feather in their cap that Shrinath, with his inherent skills and his relationship with the establishment and the locals, could now support the local land acquisition requirements in the district for various important projects in the region. Some of which were for the government itself.

Shrinath, seeking out an opportunity for something challenging all the while, was delighted at the prospect and after a brief discussion about the opportunity with his friends and family, decided to take up the job. His profile primarily involved interpreting the legal provisions available to Heera Builders for acquiring agricultural/non-agricultural lands, liaising with Government Agencies and local bodies, as well as small and marginal farm land owners and ensuring a smooth and hassle-free land acquisition process for Heera Builders.

While acquiring land was a much easier process earlier, with growing competition and awareness, land owners, representatives from the government, media, local residents and the public at large, has been viewing land acquisition for private purposes skeptically. Heera Builders is in a similar rut and has faced a lot of flak in the region lately for their reckless acquisition of agricultural land to meet their project requirements. The poor publicity this was bringing them did nothing to help their future prospects in the region and they realized it was time to rope in a local for support.

Shrinath was reporting to Murthy at his new assignment. Murthy had also, only recently taken over charge of this assignment and was grappling with the day-to-day issues of acquisition. Murthy was ill reputed for his short temper. His approach to most situations was stoic and devoid of much emotion and when he did have to forcibly respond to a situation, his first reaction is that of anger, negativity and blaming for things that are not going as he anticipated them to. Yet, he managed to achieve results riding on the efforts of his grumbling subordinates. His constant urging and follow up, and his single-minded focus on achieving results at all costs proved to be beneficial; but, working with him was quite an ordeal for most. For Murthy, Shrinath joining the team was a blessing in disguise. His cool and composed manner and his knowledge of the job brought in the much-needed balance in his team.

Shrinath was welcomed to the team with an arduous task of acquiring an agricultural land in a village in the district and this particular issue had faced several encumbrances in the last few months. The issues were plenty. There was a lot of negative publicity in the local media and the rumors had to be quelled soon. The negativity had affected Heera's relations with the local administration and with the people of the village. Their team had to produce results soon and was often burdened with multiple projects in other districts in the region.

Shrinath, hailing from the local administration itself, was seen as a key asset to Heera but one key element he lost while making the shift was that of trust. The administration now viewed him as an outsider, and members of his team viewed him as an administration loyalist. The members of his team have been working with Heera for a long time with the youngest member, Uddhav, having been working there for over 10 years. Uddhav was the more rational member of the team; he enjoyed a challenge and would pore over facts and data to ensure he

was ready to achieve the desired objective. What he lacked in terms of an emotional quotient, he more than made up for with his analysis of data and its interpretation.

Shrinath realized that this first project would prove to be a test of his ability to win over his team and his office as someone with credibility. There were subtle dynamics at play in his workspace and he was able to sense that he would have to use different approaches with people this time around to achieve results. While his cool temperament was a plus point in his earlier role with the Administration, he knew he'd have to carefully choose his approach in dealing with various people within his team and with the external stakeholders of his current project.

Points to Ponder on

- Shrinath's broad style of negotiation, Murthy's style of negotiation based on his personality traits, Uddhav's style of negotiation.
- What are the styles of negotiations, which could be employed for dealing with the local media, the villagers and the local administration?
- In view of the situation described, what are the styles of negotiation Shrinath could use to manage his boss?
- How can Murthy, stepping out of his usual behavior, help Shrinath communicate better with the team? Would placing Uddhav and Murthy together on the job prove to be more beneficial?
- Would an equitable style of negotiation be useful in this situation? If yes, how and with whom could Shrinath use it at this point?
- Who would be a better representative to deal with the issues from the media? What styles could they use while dealing with the media?

Activity

This activity requires two people. One will act as a B. Tech intern, while the other person will act as a supervisor.

Notes for Students

You are interning (for your Bachelor's degree) with the R&D department of a firm. You registered a patent in your name. For this, you got a cash prize worth ₹ 10 lakh from the firm and also a job offer of 12 lakh/annum. Your supervisor in the firm comes to know about this. He blames you for not giving him credit and filing the patent only in your name. The patent you have developed is different from the topic you are interning and hence you have not done anything wrong. However, when you actually understand the problem, you realize that if you had filed the patent along with him, you both would have got 5 lakh each. Also, your supervisor would have got an additional 15 percent raise on his current salary of 24 lakh/annum.

Solve the conflict, considering the following things:

1. You need your supervisor's signature for the approval of your internship and he has full authority to fail you. In such a case, you will have to redo the final year of B. Tech and also you will lose the job.
2. Through some people in the company, you got to know that the supervisor has the habit of creating problems in such cases and is greedy about money and will agree for settlement.
3. Students are advised to understand the reality involved in the case and keep aside the ethical part of it.

Exercises

1. Multiple Choice Questions

- i. Which of the following factors affect the negotiation style of a person?
 - a. His/her personality characteristics
 - b. The situation he/she is faced with
 - c. Process of negotiation
 - d. All of these
- ii. Maria and Jim have filed for divorce and need to make settlements now on various issues such as property, child, finances, etc. Which negotiating style is preferred for them in this situation?
 - a. Aggressive
 - b. Amicable
 - c. Equitable
 - d. Analytical and/or equitable
- iii. Mr. Farhan is a business development head at WRS Consulting. His role is to acquire new customers for his company and sell additional products or services to existing ones. What should be his negotiating style in order to excel at his job?
 - a. Amicable
 - b. Equitable
 - c. Aggressive
 - d. Analytical and/or aggressive
- iv. According to researchers Cellich and Jain, which is considered as the best style to take to a negotiation?
 - a. Dodgers
 - b. Dreamers
 - c. Competitors
 - d. Problem solvers

2. Fill in the Blanks

- i. _____ determine, in a very significant way, how an individual reacts and responds to a particular situation.

3. True or False

- i. Negotiating style is the sum totals of ways in which a person reacts to and interacts in interpersonal situations with the intention to satisfy one's inherent need orientations.
- ii. Competitive style has been criticized for its focus on specific positions rather than attempting to discern the true interests of the parties.
- iii. Each format and style of negotiation has its own strengths and weaknesses and can be strategically used in various types of situations.
- iv. Negotiating style and ability are different in the sense as an ability of a particular kind would make an individual more adept, effective and predisposed to choosing a particular style of negotiation.
- v. Behavior is the manner in which we conduct ourselves aiming to satisfy a particular need orientation.
- vi. An analytical individual is seen as socially skilled and sociable, and carries a personal charm that serves to make people comfortable.
- vii. As an individual negotiator, it helps to understand the concept of negotiating style because it helps us in a dual way: It helps us become aware of and understand our own style and also helps us identify the style adopted by the other party.

4. Match the following negotiating styles with their characteristics

i.

a. Amicable	1. Stresses on mutual goal setting
b. Aggressive	2. Values relationship more than the goals
c. Analytical	3. Values accomplishments more than relationships
d. Equitable	4. Weighs all the alternatives ahead of time

ANSWER KEY

- | | | | | |
|----|--------------------------------|-----------|-----------|----------|
| 1. | i. d | ii. d | iii. d | iv. d |
| 2. | i. Personality characteristics | | | |
| 3. | i. true | ii. true | iii. true | iv. true |
| | vi. false | vii. true | | v. true |
| 4. | i. a-2, b-3, c-4, d-1 | | | |

Exhibit 3.1**Scale to Assess Negotiating Style**

- ☐ I carefully analyze issues related to the negotiation.
- ☐ I pay thorough attention to details.
- ☐ I prefer hard facts and sound logic.

- ☐ I weigh all alternatives ahead of time.
- ☐ I like accomplishment of goals.
- ☐ I prefer to take advantage of opportunities.
- ☐ I prefer quick action over deliberated action.
- ☐ I prefer challenges.
- ☐ I prefer trying new ideas over tested ideas.
- ☐ I stress on mutual goal setting.
- ☐ I ask for help from the other party.
- ☐ I show concern for others' standards.
- ☐ I tie proposals to common values.
- ☐ I emphasize worthwhile causes.
- ☐ I am able to sense how people are feeling and thinking.
- ☐ People see me as socially skilled.
- ☐ People praise me for my personal charm.
- ☐ People see me as sociable.

Source: Kumar M, Rai H and Pati S. P. (2009)



Negotiation Process and Planning

Learning Objectives

After studying this chapter, you will be able to

- Explain the four stages of negotiation
- Assess the key steps in planning a negotiation
- Formulate goals and strategies in negotiation
- Implement the strategy of your negotiation

NEGOTIATION PROCESS

Sameer Malhotra, an investor by profession, was looking up real estate companies to buy into as his next project when he stumbled upon Nilkanth Enterprises, a builder-developer who was coming up with an interesting project in the heart of Mumbai—Worli. Nilkanth Buldule was building a tower of deluxe 4BHK apartments in one of the old mill complexes, along with an entertainment center and a mall in the same place. Interest in this project—the first of its kind in decades since the real estate industry had slumped and come back and slumped again—was running high. While a lot of onlookers prophesied that it would fail, Sameer looked at the project details he could find through the grapevine, and realized it was a goldmine for investors. Being an investor for a long time, he had made some shrewd calls over his career, but this excited him like no other for more than that reason—he had been born and reared in the gullies of old Worli. That his old locality was to have something so promising and high-end thrilled him to no end.

He decided to contact Nilkanth and see what partnership could be built. Nilkanth, a young, smart-alec builder, originally from Pune, who was slightly defiant towards authority and had made his reputation on the strength of not only his superior construction quality but also his

power-packed negotiation skills with all the myriad stakeholders in the industry. He was aware of Sameer's interest to an extent. He also had enough investment flowing through this project such that he could almost pick and choose. So when the meeting took place, Sameer, who came with high hopes, was taken aback to know that this project would work on Nilkanth's terms alone. Though Sameer was ready to make the lion's share of investment, a staggering 80%, Nilkanth made it clear that he would not encourage any other input from the veteran investor, in spite of Sameer's decades of experience in the industry. He would rather go with smaller investors and keep the creative and executive hold of his project than give it up to anyone. Sameer, who had wanted to contribute more than just money, being a local from the area felt as if someone had asked for his arm without its fingers. His first reaction, unfortunately, was to scrap the entire idea. Who did Nilkanth think he was, that he could expect someone to put in millions without giving them any other power or control? Not just someone, but an investor who would bring knowledge, experience and an emotional connect to the project? Sameer was displeased and annoyed.

Over the next few weeks though, he realized that he was more emotionally involved in this than he expected. Since he was almost 65, he had hoped for this project to be his last professional outing, and he wanted to make a grand exit from the industry. What better way to do so than via Nilkanth Terraces? But he knew that his opponent (as he now called him) was not going to budge. That is when he decided to bring Sheila, his daughter, into the milieu. Sheila had joined him a few years ago as a Director, but had shown brilliance in investment decisions that had taken the company from one milestone to the next very quickly. She had also opened up the company to investment in different ventures, start-up and tech businesses, which Sameer or his peers had not been keen on. This was a good chance to help her learn about the real estate industry and see her negotiating prowess with older, more staid companies.

Sheila took on the challenge enthusiastically. She analyzed her father's first interactions with Nilkanth and decided that he had gone in overly emotionally invested. She began research on Nilkanth Enterprises, their projects, stakeholders, customers and their public reports. She put one of her team on finding each and every person or contact that could help directly or indirectly in understanding what Nilkanth was aiming for with the project, and what he needed the most, on this project and as a company. This meant talking to past clients, government officials, those he had worked with, those he had not worked with, industry experts, and even one of his college mates who had worked with Sameer & Co. years ago.

Her goal was simple at this point: get Nilkanth to partner with Sameer & Co. on their terms. This main goal had several others attached to it: getting Nilkanth to see the value of the partnership, understanding his vision and finding ways to add to it from their end, and so on.

Sheila decided that the best strategy at this point was to go in with an assertive perspective. She took on the meeting with Nilkanth; Sameer decided to leave the whole thing to her and did not accompany her. She went in with her team instead. Knowing that Nilkanth looked at her with a little bit of amusement (How could a young lady be a good real estate investor?) she put her best, most assertive foot forward in the meeting at the beginning. She used the information they had gathered to give a thoroughly rounded opinion on her company, the project and their goals, without giving away the ultimate objective. Nilkanth, impressed almost against his will, listened to her without interruption, but knew in his mind that it would not change his decision. He was a stubborn man. That was until Sheila began talking of Prakash Wadia.

In her research, she had found that Nilkanth Enterprises had faced issues with certain regulations in the past, and a few of their files were stuck with Wadia; a high ranking government official in the City Development Division. No amount of cajoling, negotiation or even bribing from Nilkanth had helped; Wadia was one of the people who simply did not see it their way. While the project was on, a part of it could be shut down at any moment due to this issue, causing loss of money and image. Sheila had worked out a relationship with Wadia through another old connection, and he had agreed to sign off as long as Sameer & Co. was one of the investors and the one that he dealt with as point of contact. Sheila brought this up when she knew Nilkanth was going to refuse her offer; she knew that it was important to him to have all bases covered at all times. On hearing the details of the relationship, Nilkanth was speechless. He not only agreed to the deal with Sameer, but also decided to bring them on as creative partners on the commercial side of the project—the entertainment center and mall.

Like many other constructs, negotiation is a *process*—a series of actions or steps taken to achieve a specific end. Since it was first defined, there have been a number of (overlapping) negotiation processes described by experts. The most commonly used one has four stages, described below. This can be used to create understanding of how to negotiate for more positive, effective outcomes.

4.1 FOUR STAGES OF NEGOTIATION

The process of negotiation goes through four stages, almost, though not necessarily, linearly. The preparation or homework for negotiation continues throughout these four stages, and any additional information or a change of context may impact the other stages. These four stages are:

1. Preparation
2. Opening session
3. Bargaining
4. Settlement

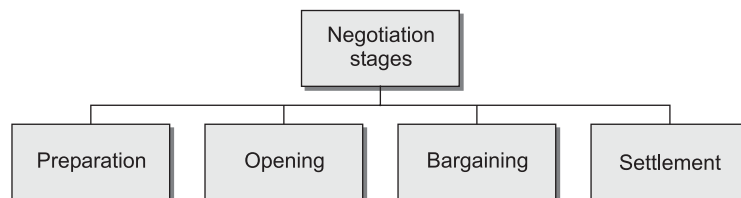


Figure 4.1 *Stages of negotiation*

4.1.1 Preparation

The first thing a negotiator must know is that any negotiation can fall through. This can especially occur if there has not been enough homework done before the actual meeting. While many believe that bargaining is the most important step in the process, preparation is one of the key elements required in a deliberate activity such as this. Fisher and Ertel (1995) stated, “lack of preparation is our most serious handicap... on average, we think you should spend as much time preparing as you expect to spend in face-to-face negotiation.”

Preparation of a negotiation involves gathering as much essential information as is possible beforehand, and using it to decide on key points to drive the negotiation process forward.

Preparation involves gathering as much essential information as is possible beforehand, and using it to decide on key points to drive the negotiation process forward. It involves researching on issues and details and coming up with a strategy that can have a positive outcome. This can include getting information on current prices, the client organization, the individuals taking part in the process, long-term relationship goals, competitive rates, most effective negotiation style and strategy, and so on.

Identifying key priorities while in the preparation stage is another essential action for negotiation; it is one of the starting points of the stage. There are various ways of identifying priorities, including: ranking them in order of importance, assigning weightage, and dividing into categories. From here, one can move to researching and establishing support for each point in consideration, literally *preparing* for any discussions that come up in the meeting. Strong support for one’s own points can help in justification and increase confidence.

Another important element at this stage is to identify one’s *reason* for being in the negotiation, and the goals to be achieved out of this particular scenario. Thus, a *negotiation agenda*—a list of items to be discussed in a particular order—can come in handy to direct the meeting in a constructive manner. Agendas can be formal or informal, direct or subtle in nature, depending on the meeting.

Preparation consists of three steps: Identification of goals, devising an overall plan to achieve those goals, and implementing that plan

All of this will enable the party to establish their *walk-away value*, also known as BATNA—*Best Alternative to a Negotiated Agreement*. This concept, proposed by Roger Fisher and William Ury in the book *Getting to Yes*, is described as “the best alternative path one can take if negotiations fail and an agreement is not reached.” Roloff and Dailey (1987) found that negotiators who possess BATNA achieved higher outcomes. But Pinkley, Neale, Bennett (1994) point out that not just any BATNA will do, it should be a high-quality, realistic alternative. Brett, Pinkley, and Jacofsky (1996) found that BATNAs could be enhanced through two additional factors: clear goals and confidence about expectations and performance.

Accepting an agreement below one’s BATNA demonstrates a failure of the negotiation process. To be able to develop a strong BATNA, various factors have to be evaluated, including appealing alternate solutions. Fisher and Ury have suggested how to do this:

- Make a list of actions one might take if no agreement is reached

- Consider some of the more promising ideas and transform them into tangible and partial alternatives
- Select the alternative that sounds best

In terms of information about the other party, it is essential to know what their priorities are, their goals and expected outcomes, their reason for negotiation, capacity for negotiation, and their resources for negotiating a deal. Researching commonalities such as overlapping goals and interests is also important and can contribute a great deal. Further, determining *how* significant the negotiation process itself is, the risks involved, relevant costs and benefits can help shape the overall agenda.

Once research and evaluation is complete, it is important to review the overall *approach* one will take in the negotiation process. This will enable the negotiator to set the tone and start out strong.

4.1.2 Opening Session

The second stage of negotiation is the opening session. It includes an introduction of the parties involved and their roles. It also consists of *presentation* of the information prepared in the first stage.

Harinck, Carsten, DeDreu, and Van Vianen (2000) stated, “Negotiators reach higher joint outcomes when they make offers that concern multiple items simultaneously than when they make offers that consider items one by one.” When parties use representatives for them, they need to establish their authority to make agreements on behalf of their clients. Straus (1993) recommends that in negotiations, we include “stakeholders who have the power to make decisions, are responsible for implementing them, are affected by them, and have the power to block them”. If authority is not established, the clients may reject an agreement forged by their representatives.

The opening stage is also the communication stage where ground rules are established and initial proposals are exchanged

After introductions, one of the parties, using neutral terms, reviews the purpose for the negotiations. At times, this process starts with one party presenting a direct exchange of issues or items. There are two kinds of exchange, the *proposal*—where the party proposes exchanging one thing for another, and the *request*—where the party asks what can be exchanged for what they are offering. Any offer can be accepted, rejected or lead to a counter-offer. This is when the negotiation really begins.

An important action at this stage is defining the *ground rules*—principles that allow the parties to proceed systematically and that streamline the negotiation. While establishing principles may seem like a waste of time in certain environments—if the other party is a close acquaintance—it is absolutely essential to do so in order to reduce conflict or anxiety on all sides. It is, however, possible that no ground rules are created in spontaneous, shadow or reluctant-party negotiations.

Carpenter and Kennedy (1988) stated that “people in a conflict need explicit guidelines when they are embarking on something as unfamiliar as problem solving with others with whom they are unfamiliar or whom they consider to be adversaries... ground rules explicitly

spell out behavior and procedures that people normally consider to be fair but sometimes abandon in carrying on a fight.”

One simple way to establish ground rules is to answer the 5W questions:

- What is the negotiation and agreement that is acceptable to all parties? This is a large question and includes the entire process.
- Where will the opening/later sessions take place? The venue can sometimes create an unequal power situation, especially in high-stress scenarios such as union negotiations.
- When will they take place and how long are they going to last? This depends vastly on the kind of negotiations taking place. Having a general expectation of duration, however, can help both parties plan their negotiations and schedule work accordingly.
- Who is in charge of each party’s negotiation—the final word on clauses or details, authority to reject or approve offers, and deciding vote?
- How is the negotiation going to happen in terms of presentation and agreement? Is it verbal, for example, written, or with legal present?

Even when some of these questions are answered, it becomes easier to create the rules and know where one stands in terms of the opening session. Examples of simple ground rules that can be established are: resolving one issue at a time, waiting for the other party to finish speaking, actively listening without passing judgment, and so on. In complex, multi-party or volatile negotiations, some of the ground rules can be: refraining from personal attacks on others, not using cheap tactics to resolve an issue, being transparent in information-sharing, mutually agreeing on meeting venues and times, allowing other parties time to make decisions, and so on.

Along with this, having a *planning sheet* in place before the opening session can be crucial. This consists of all the information and research from the preparation stage collated in a format that makes it easy for the team or negotiator to look up and use as and when required during the session. It can also work as a presentation aid during the meeting. Certain points in the planning sheet can be the following:

- Commercial
- Payment terms
- Timelines and deadline
- Deliverables
- Possible outcomes of the session and way to deal with each one

Ultimately, a good plan is one that allows both parties to do better than their BATNA and have engaged in a positive-outcome process, and that also allows for future negotiations.

The opening session can also involve a specific set of behaviors from one or all parties, known as *posturing*. This is the ‘dramatic’ side of the negotiation process, which can include overly emotional and unnecessary behaviors like name-calling and outbursts. One of the main causes for posturing can be past negotiations that didn’t work out, unequal power balance (real or perceived), and the issues of the present negotiation. Counter-intuitively, posturing

can be useful in the session since it allows for venting, after which, peaceful negotiations can be carried out.

4.1.3 Bargaining

Serious, deliberate negotiation happens in the third stage. *Bargaining* is defined as the process in which the buyer and seller of a good or service debate the price and exact nature of the transaction. There are two major factors in this stage: the number of issues discussed, and the number of parties involved. These factors interact with each other to form four potential negotiation situations that can be anticipated by the negotiators.

The bargaining stage is the negotiation stage where counterproposals are offered, parties engage in give and take, and offer and ask for concessions

Single-issue negotiations

They involve two or more parties where only one issue is being negotiated: usually the price. In a single-issue, two-party scenario, the initial offers made will be based on (though it is often not shared openly) the parties' respective BATNA. Once the offers are made, the actual bargaining begins; this is called *bracketing*, where both parties go towards a common meeting point on the deal. Here, parties are more likely to use zero-sum distributive bargaining, though integrative bargaining is also used as a means to the end.

Multiple-issue negotiations

In most real-life negotiations, there is more than one issue to be dealt with. After price, issues like payment terms, delivery times, etc., are discussed most often. In multiple-issue negotiations, one or both parties often utilize the "fixed pie" concept—where distributive bargaining is used instead of integrative—to ensure that they get what they want. While the easiest way to come to a conclusion would be for all parties to reach consensus on all issues, this rarely happens. It is more realistic for parties to stick to getting more out of the deal than their BATNA.

In the initial offers, parties rarely give out full information, even though experts encourage this behavior. Here too, posturing may be used, along with other tactics like bluffing, asking the other party to begin first, ultimatums, not sticking to timelines, and so on. Some tactics to be especially wary of are given below:

- ***Highball or Lowball***: Asking for an extremely low price (buyer) or an extremely high price (seller)
- ***Good/Bad guy***: One tough negotiator paired with a relatively 'moderate' one
- ***Nibble***: Used at the end of the negotiations to squeeze a little more out of the deal, especially if the other party is under pressure to close the agreement.
- ***Silence***: Often, negotiators simply do not talk and let the other party go on. A good way to understand this is asking questions instead of talking about one's own side of the matter continuously.

Like in single-issue negotiation, both styles of bargaining can be used here. In distributive bargaining, each party is concerned with its own aims and wants to ensure a positive outcome for themselves at all costs. In integrative bargaining, the parties are more open to coming to a midpoint and settling in a manner that is beneficial to all sides. They focus more on commonalities than opposing views.

4.1.4 Settlement

The settlement stage, the last step in most negotiation scenarios, is where the contract and specifics are officially agreed upon, or *settled*. While all the stages are significant, this stage is where everything is finalized. Therefore, it requires a large amount of attention to detail from all parties. Often, the settlement stage is not even reached after bargaining. This can happen for a number of reasons—for example, because the negotiations fall through or because that specific process was related to information exchange rather than settling on something definite. If a settlement falls through, it is usually because one or both parties believe that the negotiation is not going to lead to a good enough deal for them.

The settlement stage is where parties reach an agreement and close the deal

This is where the walk-away value (as discussed in the preparation stage) is crucial. If one party believes that their walk-away value is not being met, they may, to put it simply, walk away. If both parties believe that there is nothing of positive value in the negotiation process, then also a fall-through is likely to occur. This is known as *impasse*. In some impasses, a *third-party* might intervene—a moderator, who can bring a fresh or objective point of view to the negotiation process. Lawyers, bankers, and industry experts are often seen as third-party negotiators.

There are different ways of reaching a settlement, depending on the parties, the kind of deal being struck and the negotiation process leading up to agreement. Some of the strategies are:

- **Incremental convergence:** The process is mutually decided upon and moves incrementally, with various compromises and trade-offs being made till every point is settled.
- **Leaping to agreement:** There are fewer concessions and the focus is on getting a settlement in place before the deadline. Higher importance is given to one's own interests here.
- **Agreements in principle:** The parties reach an overall conceptual agreement first and then attempt specific incremental agreements.
- **Procedural agreement:** In complex issues, parties may first settle *how* to negotiate or deal with a problem before getting to negotiation of the problem itself.

What can also occur in the settlement stage is *fatigue*, where one or more negotiators, having become exhausted by the negotiation process (which can be quite mentally or physically draining), 'give in' to a certain extent and agree to a less than effective deal for their party.

Active listening skills and the knowledge of when one should be proactive or reactive in the negotiation can be enablers in settling on a deal.

Once a settlement has been reached, it is imperative that the agreement consists of a *summary* of each item and issue. This is especially significant in lengthy, complex and large-consequence negotiations where a point that was resolved earlier can come up again since opinions have changed over the course of the negotiation process.

Connected to the above, there may also be an additional stage of *follow-up*, especially in the case of sweeping negotiations where a number of details need to be re-looked at due to change in scope or other external factors.

4.2 PRAM MODEL OF NEGOTIATION

Ross and Long have created an alternate model of negotiation—a four-step model that results in a win-win situation for both parties. PRAM is an acronym for plans, relationships, agreement and maintenance. The four sequential steps in the PRAM model are: adequate *planning*, building *relationships*, reaching *agreements* and *maintaining* these relationships.

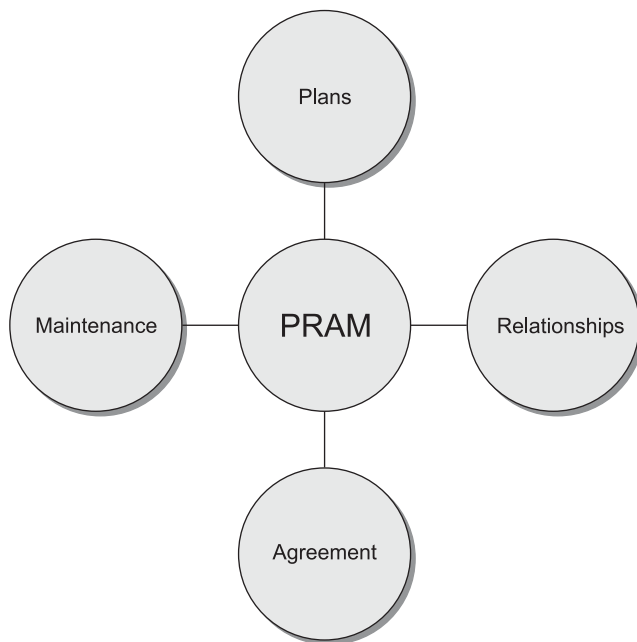


Figure 4.2 *PRAM model*

4.3 KEY STEPS IN PLANNING FOR NEGOTIATION

Planning for negotiation is an often-overlooked and underestimated process, usually done to save time. However, planning and strategy sessions are critical to the negotiation process; they enable parties to be much better prepared, reduce the time taken for negotiating, and lead to more positive, efficient outcomes. Not planning beforehand can cause negotiators to fail directly and often, since there is no or little clarity on objectives and requirements. It also leads to a lack of confidence or convincing power among the negotiators, such that they may fail to reach settlement or end up with an agreement that they do not really like.



Figure 4.3 Key steps in preparing for a negotiation

Negotiation planning is an extensive process in itself. There are various factors to be considered, such as creating a proactive negotiation strategy that leads to a win-win outcome, understanding and considering issues that are significant for all parties and trying to resolve them, having knowledge of human behavior and communication styles—especially while using bargaining tactics or measures—establishing negotiation roles, and so on. The broad process involves three steps: goals, strategy, and planning.

In a study conducted by Rackham on the planning process (1980), it was found that skilled negotiators differed from the average ones in a number of ways:

- They looked at a larger number of options before negotiation
- Made more effort in looking for commonalities with the opposite party
- Spent a larger amount of time on the long-term implications of issues
- Were significantly more likely to have a range of acceptable agreements in place

4.3.1 Goals

No deliberate process like negotiation can be truly successful without the presence of *goals*. In fact, the measure of success in many outcomes is the achievement of specific established goals. Thus, determining goals at the beginning of the process (they may be modified over the course of planning and negotiation) is imperative. The first step is to establish what the goals are. They can be of various types—substantive, intangible, and procedural. Substantive goals are about tangible issues like money (price), time of delivery, and warranty; intangible goals are about issues such as winning or reaching a settlement at any cost; procedural goals are about the means adopted to reach the end targets (fairness, voice, etc.).

Goals in a negotiation fall under three categories: substantive, intangible and procedural

Substantive goals refer to substantive targets like desired price, preferred time of delivery, preferred warranty period

Intangible goals refer to objectives such as winning or getting the upper hand at any cost, or settling at any cost even though the price paid may be higher

Each goal, once decided upon, must be ranked in order of priority in the negotiation. Goals must also be looked at as a whole, along with their interlinks, possible compromises, and trade-offs.

Procedural goals refer to the desired fairness in the means and methods adopted to reach the targets

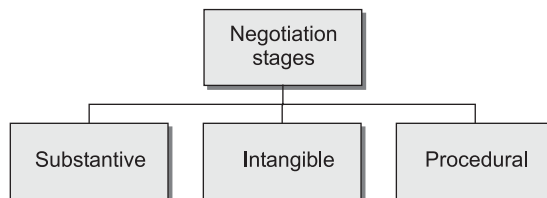


Figure 4.4 Goals in negotiation

Once goals have been established, it is important to understand their effects on the strategy for negotiation. Effects can be *direct* or *indirect*:

Direct effects of goals

- Wishes are not goals, especially in negotiations. They are not tangible and may be a factor in the goals set, but goals themselves are achievable targets that can be realistically created in planning and negotiated upon.
- Goals can be linked to the other parties' goals. The connection between goals of different parties is the source of commonality or conflict in a negotiation. This is what defines the issue that needs to be settled upon.
- Goals have limits. They must be achievable; otherwise, the negotiation is likely to fail. If the limits of a goal change or exceed during the process, it can signal a need to modify the goal or end the current negotiation process.
- Effective goals are specific, concrete and measurable. The more effective the goals are, the easier it is for parties to understand, communicate, negotiate, and settle on them.

While some goals are intangible and procedural, it is important to know which goals are most important in the negotiation and plan accordingly. Clarity on goals established during planning has a direct link to clarity while negotiating.

Indirect effects of goals

- The main element is the establishment of a strong relationship with the other party. While directly achievable goals are often easy to attain through simple processes, their long-term value and impact on the parties must be considered.
- Further, success of complex goals (that require more effort in planning and negotiation) may hinge upon the relationship between the parties. Thus, these goals must be looked upon in a different light from simple ones, such that success means attaining a positive substantive outcome as well as a good relationship.

4.3.2 Strategy

Mintzberg and Quinn (1991) define strategy as “the pattern or plan that integrates an organization’s major targets, policies and action sequences into a cohesive whole.” In negotiation, this means making a plan around one’s goals and the tasks that will enable one to accomplish them.

There are various *approaches* to strategy in negotiation. A *unilateral* approach is where only one party is involved in the establishment of the strategy, and where the party does not have information about the other. A *bilateral* approach is the opposite, where both parties are open to including information about themselves with the other, as well as using the information provided in their own strategy planning.

In negotiation strategy, the *dual-concern model* is a fitting one to explain the process and the different kinds of strategies one can use. Proposed by Pruitt, Rubin and Hin (1986), it uses people’s orientation in conflict as its basis for establishing two types of concern: for one’s *own* outcomes and for *others’* outcomes.

The dual-concerns model suggests four different strategies based on the importance of substantive outcomes and relational outcomes

Using this model, it has been further determined that there are two main factors at play:

- Assertiveness (interest in *substantive* outcomes, such as winning the contract)
- Co-operation (interest in *relational* outcomes, such as building a good relationship)

These factors and their interplay results in four kinds of possible strategies:

- *Avoidance*: Neither substantive nor relational outcomes are required; this is a non-engagement strategy where negotiators choose *not* to negotiate as their strategy.

When neither substantive outcomes, nor relational outcomes are important, the appropriate strategy is avoidance

- *Competition*: Only substantive outcomes are focused on; this is distributive bargaining.

When substantive outcomes are more important than the relational outcomes, the appropriate strategy is competition

- *Collaboration*: When both relational and substantive goals are important, the strategy is integrative, or win-win.

When both substantive and relational outcomes are important, the appropriate strategy is collaboration

- *Accommodation*: This is when only relational outcomes are prioritized, an “I lose, you win” scenario where the negotiator sacrifices his strategy for the sake of a long-term relational goal.

When relational outcomes are more important than substantive outcomes, the appropriate strategy is accommodation

It must be remembered here that each of these strategies has their pros and cons. In real life negotiations, it is more than likely that multiple strategies are used at different stages in the process.

While most people use these terms interchangeably, there is a difference between negotiation *strategy* and *tactics*. Strategy is a larger, more complex construct in the process while tactics are a smaller part of this. Strategy is long term and constant while tactics are more short term and can change based on the strategy and the situation. Thus, tactics cannot take the place of a well-thought and established strategy for successful negotiation.

According to Cohen, Stark and Flaherty, there are three elements identified which play a critical role in strategy design. These are *time*, *information* and *power*. Together, they can be used in five different ways or strategies:

- *Increments of concession*: Using a pattern of concessions that causes the other party to guess one's BATNA and reciprocate with concessions that are closer to one's real BATNA, thus enabling the negotiator to walk away with a good deal. This is used mostly with distributive bargaining.
- *Principled negotiation*: Coined by Fisher and Ury in their book *Getting to Yes*, this is used in integrative bargaining situations and is on the other side of the spectrum from positional bargaining. Here, parties openly discuss goals and interests, focus on positions instead of people and being emotionally involved, try to reach mutually beneficial outcomes, and remain objective in their negotiation process.
- *Multiple equivalent simultaneous offers*: This is a flexible strategy where more than one option is provided to increase the likelihood of one of them being accepted in the negotiation. Each option can be compared qualitatively.
- *Economic matrix*: Adding an economic value to the above strategy leads to a more objective and direct comparison.
- *3D negotiation*: Suggested by Lax and Sebenius, this strategy includes three dimensions to be considered for success in negotiation: the tactics, the proposal design and particulars, and the negotiation set up.

4.3.3 Implementing the Strategy — Planning

Connected to the preparation stage of negotiation, planning for strategy implementation is an imperative part of the process. It is often the difference between success and failure of the negotiation, and a far more crucial factor than tactics or game playing.

There are many elements in the planning process that must be considered for effective implementation. These pertain to the subject of the negotiation as well as the people connected with the process.

- *Defining issues*: The number of issues is often the single most crucial determining factor in whether a negotiation will be distributive or integrative. Issues can be defined by analyzing all possible concerns, use of research and previous experience, and consultation with industry experts.

- **Assembling issues and defining bargaining mix:** Once the issues are defined, each party must assemble them and share with the others. All the lists combined together form the *mix*, which can be complex and require in-depth negotiations. It is important for negotiators to rank issues in order of priority as well as identify separate issues and interlinked ones.
- **Defining interests:** Interests are the *reasons* a negotiator takes up a particular position in the negotiation. Having clarity on these is important as they bring out the needs, goals and principles that are of significance to the party.
- **Defining limits and alternatives:** This includes knowing one's resistance point (like walk-away value) as well as acceptable alternatives that may come up in the negotiation. Planning for these can help the party avoid stumbling during the process or being caught off guard.
- **Defining one's goals and opening bids:** Having target points in mind, even if they are not as rigid as resistance points, can enable the party to achieve their goals more efficiently. It requires thinking about one's goals, combining various issues and objectives, as well as understanding trade-offs. The same applies to opening bids being made.
- **Assessing constituents and social context of the negotiation:** Large, multiparty negotiations can have complex social contexts that must be considered in the planning for strategy. This includes constituents or stakeholders, one's own party and other parties, observers, bosses, the larger environment set up of the negotiation, and common or acceptable practices.
- **Analyzing the other party:** This includes research on the other parties as well as communicating with the relevant people on all sides to gather information. This also includes finding out as much as possible about the party on all of the above points.
- **Planning issue presentation and defense:** This includes planning for one's own opening, pitching, and presentation as well as counters to the other party's presentations.
- **Defining protocol:** This is similar to the guidelines or ground rules discussed earlier in the chapter.

Zartman (1989) suggests several additional steps in planning, such as assessment of the level of commitment to negotiation; creation of expectations for reciprocity; transition in the nature of the relationship; agreement on definition of the problem; and weighing the benefits, costs, and risks of negotiation.

Summary

Negotiation, as a process, has four basic stages that are covered in this chapter, along with their planning and strategy. The four stages of negotiation are preparation, opening session, bargaining and settlement. Each of these involve sub-processes of their own that enable the negotiating parties to reach their goals. Careful planning and strategy building also achieve this before negotiation begins, an often-ignored part of the process since it is time consuming. It includes establishment

of goals, creating strategy for the negotiation, and implementing the strategy effectively. It is important to note that although negotiating processes and strategies differ based on the negotiator and the setting, they usually follow the general path outlined in this chapter.

Discussion Case

Aditya had been an entrepreneur all his life, having been brought up by parents who were entrepreneurs themselves. Right from the first lemonade stand he had set up outside his house to the placement preparation start-up he had implemented at his engineering college, he had honed his business skills remarkably. During his time studying computer science at college, he got together with another friend, Rahul, a coding wizard, and the two developed an application together. The app is a sort of a social network for coders and computer techies of all kinds. It acted as a platform that brought together these service providers with their potential customers. The app grew steadily through the final two years of their college and by the time placements began, the two decided to focus on their app and build it into a company. To that end, they handled the legal and business end of things. The number of users steadily kept growing and a decent stream of revenue started flowing into their pockets.

However, Aditya was not satisfied and decided that they'd have to bring in investors in order to develop grow the app. Rahul, on the other hand, was of the opinion that organic growth was the way to go. The two partners found themselves at loggerheads and Aditya, who is stubborn by nature, did not budge at all. Rahul, who was not argumentative and avoided conflict at all cost, hated that he couldn't convince Aditya and that his partner would not even talk to him. The rift between them grew and resulted in Rahul eventually buying out of the partnership. While this left Aditya without a technical expert, he decided that he could handle the application himself and go ahead with the investment. After about a month of Rahul quitting, Aditya managed to set up a meeting with four potential investors. A brief profile of the investors is as follows:

1. Kevin O' Hara

Kevin made his money in Silicon Valley during the dot com bubble. He sold his web-based start-up for over 800 million dollars. He was well known around the industry for his business acumen and for being overly focussed on profit making. Kevin did not care much about the company as long as it was making him more money. He was shrewd, always fought for more equity and made up for his lack of EQ with his analytical ability.

2. Monica Sharma

Monica was dubbed the 'queen of TV marketing' by the industry. She had made her money through some great investments in the 90s and was known for the many advertisements that she herself designed and starred in. She was someone who only worked on a project if she had her heart in it. Recently, she had begun investing in tech companies and was seeking to set a foothold there. She was inquisitive by nature, and always tries to establish an emotional connect with her partners and was someone who treated her partners like family.

3. Kartik Reddy

Kartik had also made his wealth during the dot com bubble but he wasn't nearly as wealthy as Kevin. He was a tech geek and loved to work in the industry. He was also a family man and the oldest of the three. He was known to invest and forget, i.e, he did not micro-manage his investments and let the entrepreneurs take care of their own businesses. He believed in giving full administrative capacity to the owners.

As Aditya prepared his pitch to the three investors, he thought about all that he knew about them and wished he'd had Rahul to support him in this. He was nervous and not really sure, this being his first encounter with a real investor.

Points to Ponder on

- As Aditya, what would you have done in order to convince Rahul to stay and go ahead with your plan? Where did Aditya go wrong in this case?
- How would each of the four stages of negotiation (preparation, opening session, bargaining, and settlement) differ for each of the three investors?
- Apply the PRAM model to each of the three investors and come up with a brief outline of how you'd approach them.
- Which of the three investors do you believe would be ideal for Aditya? Which do you think would be ideal for Rahul?

Activity

Divide the class in pairs of two.

One acts as a disgruntled customer, while the other acts as a hotel vice president (customer relations).

Notes for Customer

You recently stayed at a hotel, which is a part of a chain of five-star hotels. You were served stale food in dirty dishes. You were outraged and felt cheated. You had paid ₹ 30,000 per day for two people for a seven-night stay, which included meals. However, you felt cheated and decided to complain to the central office of the chain. The vice-president of the chain has asked for an appointment to talk to you in response to your complaint. You should talk to the VP considering the following:

1. You did enjoy your seven-night stay without any other complaints but the stale food in dirty dishes on the last day made you question the hygiene levels of the hotels. Also, you are very health conscious and got freaked out with this incident, making you question the quality of everything served in the last seven days.
2. You searched the Internet and found that you have to file a court case, which may take a long time with an uncertain outcome. No such cases were reported in the recent past.

Notes for Vice-President

You have verified the authenticity of the complaint with the hotel staff. However, you know that the customer enjoyed the stay for seven days before the unfortunate event. You certainly do not want the customer to file a complaint with the court. You also do not want to give total refund of seven nights as the customer did face issue only on the last day during a meal, which cost ₹ 1,000 per person (if not a part of the package). However, you do not wish to lose the customer and hence are ready to negotiate to a level that the customer feels satisfied.

Exercises

1. Multiple Choice Questions

- i. Select the critical issues that must be determined in the preparation stage of a negotiation process.
 - a. What should be the opening position and how can it be logically defended?
 - b. What is the other side's aspirations with respect to each issue?
 - c. What is the bottom line?
 - d. All of these
- ii. The stage in which the buyer and seller of goods or services debate the price and exact nature of the transaction is known as
 - a. preparation
 - b. opening session
 - c. bargaining
 - d. settlement
- iii. The main causes for posturing can be
 - a. past negotiations that didn't work out
 - b. unequal power balance (real or perceived)
 - c. the issues of the present negotiation
 - d. All of these
- iv. The main elements in the planning process that must be considered for effective implementation are
 - a. defining interests
 - b. defining one's goals and opening bids
 - c. defining protocol
 - d. All of these

2. True or False

- i. Successful negotiators focus on building common ground to develop rapport and get a positive response. This can include relationship issues such as values and visions, along with subject issues such as a long-term contract and agreed standards.
- ii. The PRAM model treats negotiations as a zero-sum game, in which one party benefits at the expense of the other.

- iii. The highball or lowball tactic is used at the end of the negotiations to squeeze a little more out of the deal, especially if the other party is under pressure to close the agreement.
- iv. Skilled negotiators have clear outcomes and strengthen their position by building strong alternatives prior to a negotiation
- v. Skilled negotiators get agreement on the negotiation process to ensure the opportunity to create value is maximized
- vi. Skilled negotiators withhold information and focus on a single issue to minimize differences.
- vii. Skilled negotiators develop influencing strategies based on the needs of the other party.

3. Match the following strategies with their definitions

i.

a. Multiple Equivalent Simultaneous Offers	1. Integrative or win-win strategy
b. Collaboration	2. Leads to more objective comparison
c. Incremental Convergence	3. Flexible strategy where each option can be compared qualitatively
d. Economic Matrix	4. Process in which various compromises and trade-offs are made till every point is settled

ANSWER KEY

1. i. d ii. c iii. d iv. d
2. i. true ii. false iii. false iv. true v. true
3. i. a-3, b-1, c-4, d-2

Exhibit 4.1

Dual Concerns Model

Substantive Outcome Important			
Relational Outcome Important		YES	NO
	YES	Collaboration	Accommodation
	NO	Competition	Avoidance

Exhibit 4.2**Stages in Negotiation**

- ☐ **Preparation:** Gathering relevant information, deciding the issues of interest to both the parties, setting priorities, developing supportive arguments
- ☐ **Opening session:** Establishing ground rules, determining a framework for action, exchanging initial proposals
- ☐ **Bargaining:** Engaging in give and take, discussion of issues and exchange of counterproposals
- ☐ **Settlement:** Reaching a final agreement or closing the deal

Exhibit 4.3**Steps to Implement Negotiation Strategy**

- ☐ Define the issues relevant in the negotiation
- ☐ Assemble the issues and define the bargaining mix in terms of essentials, desirables and giveaways
- ☐ Define your real interests in the negotiation
- ☐ Define your limits (red lines) and alternatives (and figure out which among them is your best alternative BATNA)
- ☐ Define your own objectives (targets) and opening bids (where to start)
- ☐ Assess the constituents (real parties) and the social contexts in which negotiation will occur
- ☐ Analyze the other party
- ☐ Plan the issue presentation and defense
- ☐ Define the protocol: where and when will the negotiation take place, who all need to be there, what the agenda would be, etc.



Communication in Negotiation

Learning Objectives

After studying this chapter, you will be able to

- Describe the theories of communication
- Analyze the nuances of kinesthetic communication
- Explain the theory and elements of persuasion
- Discuss communication in context of negotiation

COMMUNICATION AND NEGOTIATION

Uttam Vaidya founded his design firm, AtiUttam, more than 10 years ago and successfully worked with some of the biggest companies and brands in India. As a designer and company-owner, he had the perfect blend of creative and management skills that led him to be one of the acclaimed members of his industry. With some of the best creative minds in the country, and a staff of 75 members, his design business was flourishing.

One of his older clients, Engage Solutions, was a bottle-manufacturing firm that had signed up with AtiUttam to do a makeover of their brand to become more prominent. This contract had led to a long-term rapport and currently they are a major contributor to AtiUttam's profits. While not a B2C firm (so their identity was not known to end users) their rebranding had helped them gain many distinguished clients overseas. Engage Solutions' chairman, Rishikant Goyal, had become a particular fan and friend of Uttam, and had even asked the firm to design his son's wedding, from the invites to the stage. Not only that, he had also referred Uttam to his personal and professional networks. All in all, it was a great relationship for AtiUttam to have and nurture.

One of these references, Singha Auto, was Goyal's brother-in-law's firm, in which Goyal had stake as well. Kashyap Singha, the owner, wanted his new office space designed by AtiUttam. Unlike his relative, however, Singha was a cunning, sharp-talking, self-centered businessman whose motto was to squeeze as much work out of people as possible without paying them for the same. Predictably, his company followed suit in its ethics and principles, and often their clients or relationships, like with AtiUttam, came only through their more benevolent sleeping partner. Goyal, for his part, was not tuned into Singha Auto's daily affairs as part of his role, so he relied on Singha's testimony.

As it turned out, the Singha Auto – Atiuttam relationship didn't succeed. Singha had a problem with almost everything from the start, and tried very hard to not pay the design firm. In spite of all the difficulties created, AtiUttam finished their work on point and time. Although the office space cost almost double the projected expense due to the myriad changes made by their team, it looked great and was functionally superior. Yet, when Singha did one of his on-site tours, he found many minor faults and then refused to pay the remaining amount to AtiUttam. The design team (which was almost at the end of the tether) sent emails and made calls regularly towards the payment, but to no avail. Ultimately, they had to sever the relationship and stop working on the site; though almost 90 per cent of the work was done, they had not been made almost half their dues!

When Goyal heard the story from his relative, he was furious. He immediately set up a meeting with Uttam at his office, and was aggressive from the moment he stormed in. He not only criticized Uttam for not finishing work on time, but also asked him why the office cost so more than what was primarily projected. He made it perfectly clear that not only was the payment not going to be made, but he was planning to sever his professional relationship with AtiUttam as well.

Uttam was taken aback by his friend's hostile behavior but decided to be patient. He understood that this was possibly a power play from his friend, driven by his relations with his family member. He heard everything Goyal had to say, and even asked one of his team members to make a note of the main points put forward by him and Singha. At the end of the meeting, he simply requested that his part be heard by Goyal at a slightly later date. In the interim, they would resume work on the office if allowed to do so.

The next week, in a meeting at his office, Uttam invited Goyal alone. He communicated the entire chain of events, using presentations made to Singha, blueprints of the original office plans and the massive changes asked by the client, as well as excerpts from communication between the two companies, which showed where the costs had gone up: in the massive, unrequired changes asked by Singha and the extra time they had taken in coming back to Uttam with approvals. He also shared the actual work timeline and progress clearly to eliminate the chaos, and spoke on the main issue, whereby it was not upto him or his team to ultimately reject the changes asked for; the client knew from day 1 that they would increase the cost.

Uttam knew he had to remain calm and trustful in the interaction to make any headway. Being emotional or showing Singha in a bad light would cause damage to his friendship with Goyal as well. So he treaded carefully, spoke calmly but firmly, and stuck to facts and figures. He did not bring in the mental stress caused by Singha to his company, but he explained the man-hours lost by his team in firefighting for the client on random issues. He also related his own experience with the owner. Finally, Goyal understood that the problem was his brother-in-law and his company values. He got Singha to pay AtiUttam for the extra work, asked him to stop overseeing the work at the new office completely and left its design mandate to Uttam's sensibilities.

A few weeks after the project was completed, AtiUttam received the final cheque. Alongside, there was a miniature sculpture in gold, and a thank you-gesture sent directly to Uttam.

5.1 DEFINING COMMUNICATION

Communication is defined as the imparting or exchanging of information between two or more participants in order to convey or receive the intended meanings through a shared system of signs, symbols, and rules.

Communication, etymologically derived from the Latin root *communis*, which means to share or to make common, is defined as the exchange of messages

Communication can be verbal, non-verbal and written in form. *Verbal* communication is a two-way process where language is the main medium. This includes use of grammar, syntax, and semantics, and forms a significant chunk of our communication in all aspects of life. *Non-verbal* communication is the use of eye contact, body language, facial expressions, and gestures to convey the message. It also includes paralanguage—the tone, tempo, and stress of speech. *Written* communication in our time usually takes the form of articles, text messages, letters and emails. It includes all written forms of communication, from hieroglyphics to electronic code.

The basic steps of communication are:

1. Forming of communicative intent
2. Message composition
3. Encoding
4. Transmission of signal
5. Reception of signal
6. Decoding
7. Interpretation of message

There are many models of communication, the following three being the most significant:

- The *linear model*, propounded by Shannon and Weaver in 1949, explains how a sender transmits a message and a receiver absorbs it. The sender, the channel, and the

Effective communication happens when the message is received as accurately in terms of content and meaning as the sender intended

receiver are the main factors: sender turns an idea, thought or feeling into a message and transmits it to the receiver via a channel. The channel is the medium of communicating the message: for example, speech or writing. Once the message is transmitted to the receiver, it is decoded.

This is one of the first and simplest communication models, and can be used in one-way communication activities such as marketing, sales, and PR. The concept of *noise* is also examined at length in the linear communication model.

- In 1960, David Berlo expanded on the theory by Shannon to create the *sender-message-channel-receiver (SMCR)* or interactive model of communication, which elaborated on the earlier one. However, the main disadvantage of the interactive model is that it does not allow for simultaneity or the fact that communication is a dynamic process.
- Barnlund, in 1970, proposed the *transactional model* of communication, which establishes that communication is an ongoing and dynamic process. The sender, receiver and environment are all changing; each of these factors exists in relation to the others.

The channel or the medium for sending the message ought to depend on the routineness of the message; routine messages can be sent through channels which are not so rich (e.g. memo) while non-routine messages should be sent through rich channels (e.g. face-to-face)

Communication is one of the most important factors in any negotiation. In fact, negotiation is a type of interpersonal communication in itself; a transactional process where parties transmit and receive messages and respond to them, creating a circle of influence and communication that ultimately leads to a negotiation.

There are three objectives to any communication: informing, convincing and/or persuading

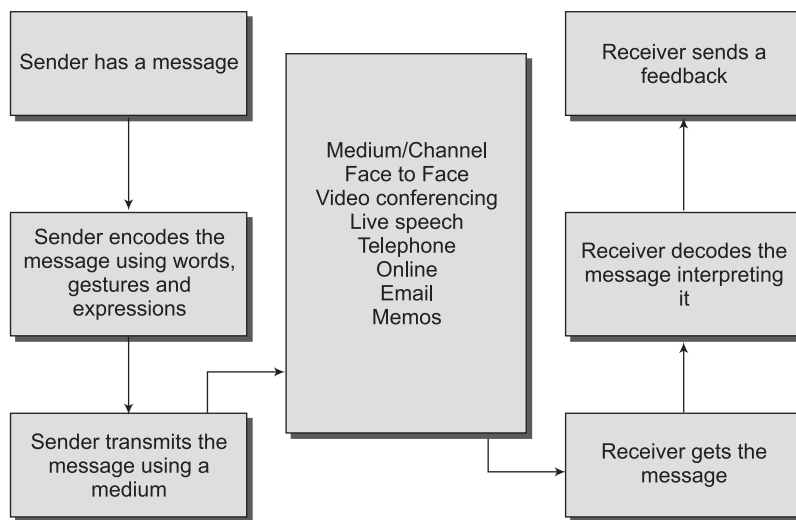


Figure 5.1 *Process of communication*

5.2 KINESTHETIC COMMUNICATION

All human beings have systems for storing, sending and receiving information; basically, it is the same information processed in a different way. Identifying and recognizing the other party's system and adapting one's own communication style accordingly can make one a more effective communicator and ultimately, a great negotiator.

Information is different from data; while data is raw figures and facts, information is data in a meaningful form

These representational systems, used in various situations by people, include their experience as well as perception, thought, memory, imagination, and consciousness. There are three main systems that people use: visual ("I see what you mean"), auditory ("I hear you"), and kinesthetic ("I get the grip of things").

Statistics suggest that 60 to 80 per cent people are visual, while the rest are auditory or kinesthetic. This is important for advertisers, marketers, and public relations people, as well as in business and management, and negotiation.

Kinesthetic communicators are all about the "gut feeling". They learn by doing and acting, unlike the other two kinds of people who do so through visual or auditory cues. Kinesthetic people require hands-on experience to be able to make sense of something, will move and talk more slowly and articulately, and use physical touch as part of their communication. Understanding kinesthetic communicators is important since it can enable one to manipulate dialogue in a manner that allows for more effective negotiation.

Steps to become a kinesthetic communicator:

- Identify the system being used by the other party in negotiation. Is it visual, auditory or kinesthetic? This can be done by paying attention to the language they use, their body language, speed of talking, and use of gestures.
- If the other party is kinesthetic or is using that system in that scenario, they talk slowly, use "feeling" related words, use few gestures and are comfortable with physical proximity or touch.
- Begin using similar language and gestures as the other party—words like "getting a handle", "I have a good feeling about this", "firm foundation" and so on.

Further, one must also be kinesthetic about the negotiating environment in general, to *feel* the scenario (in which the negotiation is occurring) from a kinesthetic perspective. This can enable the negotiator to get a better idea of their own reactions and responses to the process, and manipulate these for better outcomes. For example, if the negotiator is tired, uncomfortable or distracted, being aware of these feelings can help her change her responses or environment—concentrate harder, ask for a break or conclude the process for the time being.

It is further important to know that people might not remain in one system all the time; they might have one ground state, but can change it based on their own perceptions and environment. Knowing when to adapt and how to use each style to benefit is crucial in negotiations for success.

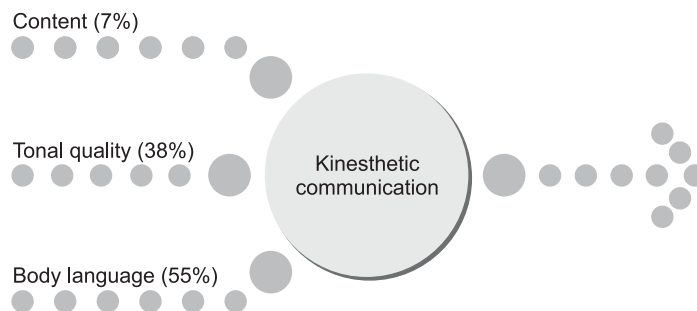


Figure 5.2 *Elements of kinesthetic communication*

5.3 PERSUASION AND ITS THEORY

Persuasion as a concept has been around since the early 1900's. Simons (1976) identified it as "human communication that is designed to influence others by modifying their beliefs, values, or attitudes." Studies have been conducted since the 1940's, which have told us a lot about how this concept works. In the negotiation sense, persuasion can be described as a process aimed at changing people's attitude or behavior toward an event, idea, object or person through information, emotion, and/or rationale. The earliest theory came from Aristotle's concept of rhetoric where he defined three elements integral to it: ethos, pathos and logos. Ethos referred to the credibility of the persuader in the eyes of the people he/she was trying to persuade them on and was subject specific. For instance, if you are trying to persuade people to come to work early, but you yourself come late regularly then your ethos would be low on this particular issue, no matter how good you are at everything else. Pathos referred to passion and emotion in so much as if people can connect emotionally with your message, they are far more likely to be persuaded than otherwise. Logos referred to logic and reasoning, the element of rationality in the message.

Aristotelian rhetoric identified three elements of persuasion: ethos, pathos and logos

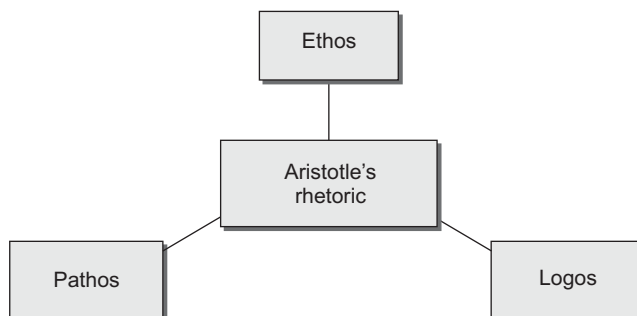


Figure 5.3 *Aristotle's rhetoric*

Later theories have built on these basic elements and can be summarized as follows:

5.3.1 Stimulus-response Model

This theory states that the stimulus response has a middle factor: individual psychological traits that differ in each person. The process occurs in three stages: through Communication; Attitudes; and Behavior. The first stage of the application requires the audience to analyze and determine beliefs, values, motives, and attitudes on a communicated topic. The next stage has the communicator or the message attempting to change an attitude, and then behavior. This can be done either by trying to change a *belief* or by trying to change the *values* that drive an audience to believe in something.

There are some effects at play that have been identified here.

- **Selective exposure:** Exposing an audience to what they agree with will work better.
- **Selective perception:** Just like a message is translated based on the receiver, communication according to this theory depends on what is perceived by the audience, and whether it is perceived or not.
- **Selective memorization:** Audiences remember messages differently; factors affecting this include length of the message and how close it is to their own views. *Bartlett's Effect* states that a longer message requires more time to assimilate for the audience.

Certain other factors affect the persuasion of an audience, such as the credibility of the communicator, the order in which information is shared, the overall picture presented by statements, and the conclusions. These can be kept in mind in the negotiation scenario to reach a more positive outcome.

Following a rational approach to persuasion, a scientific formula has been identified. According to this, values, beliefs, and motivation are key generators of people's attitudes, while attitudes influence behaviors.

Value + Beliefs + Motives = Attitudes



Figure 5.4 Elements of attitude

Lilly (1944) studied the most frequently used persuasive techniques to sustain a long-term cultural transformation of society, and found that persuasion is most effective when a communicator builds on *existing* values and beliefs. It is almost impossible to change or create values, and to radically transform an existing culture. She also found that persuasion is most prevalent in media, education and arts, so people who don't fall under any of these categories in terms of usage are less likely to be persuaded effectively.

5.3.2 Elaboration Likelihood Model (ELM)

Developed by Petty and Cacioppo (1986), this theory looks at persuasion as a cognitive event, where mental processes such as motivation and reasoning are used to accept or reject messages of persuasion.

There are two ways of persuading the opposite party, depending on the kind of audience they are: through *centrally* routed messages or *peripherally* routed messages. The former, a more complex method, is also known as an *elaborated* route. An elaborated/central message contains a large amount of information, rationale, and evidence to support a particular premise. It is meant to create long-term change in an audience that is also capable of receiving it. ELM theory states that centrally routed messages are effective in the long-term change when the opposite party is *highly motivated* to process the message, and when the party is *able* to process the message cognitively.

Another important factor in this path is the *type* of message being sent, known as *elaborated arguments*. These can be strong (positive, long term effect), neutral (no cognitive or attitude change), or weak (negative response causing reverse effects).

Peripherally routed messages work when the audience is not motivated or skilled to understand central messages. Peripheral messages focus on the other party's emotional involvement and persuade through quick, easy and superficial ways, though these messages will only produce short-term change. Like centrally routed arguments, peripheral messages can be positive, neutral, or negative.

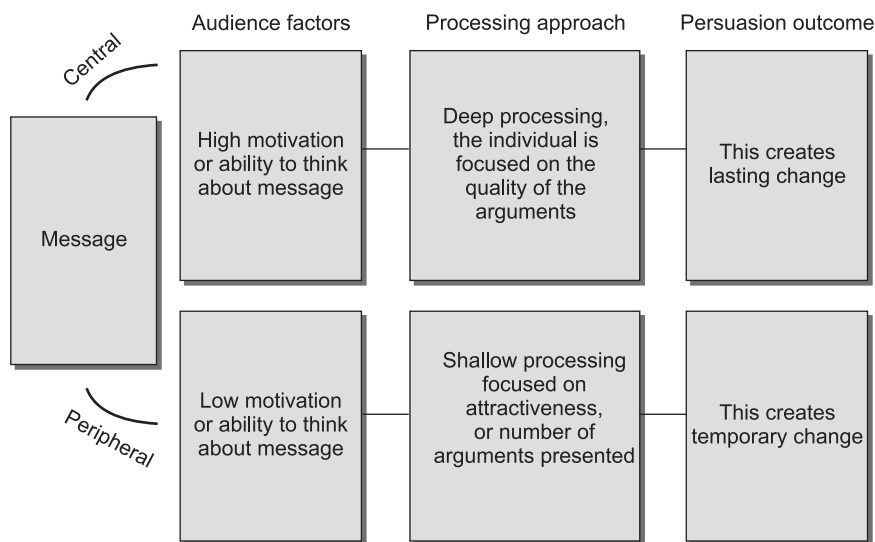


Figure 5.5 Elaboration likelihood model (Petty & Cacioppo, 1986)

Cialdini (1993, 1994) has identified seven cues that can be used to send a peripheral message.

- **Authority:** When a parent tells a child “clean up your room because I said so!” it may make the child behave as needed at that point, but might not lead to long-term neatness.
- **Commitment:** Showing one’s dedication to a cause or organization can help in persuasion. This is more effective if done publicly than privately.
- **Contrast:** Here, the communicator needs to set up unequal points of comparison (Cialdini, 1993). For example, asking for something the other party finds very difficult to agree on, and then asking for something easier might actually get the negotiator what he really wants (i.e., the latter point).
- **Liking:** These cues are based on affinity toward a person, place, or object.
- **Reciprocation:** These cues are used when there is focus on a give-and-take relationship between parties, which is used as a way of achieving one’s objectives.
- **Scarcity:** It is a peripheral cue that preys on people’s feeling of missing out on something if they do not give in to the message.
- **Social proof:** The cue that sends the message through the basic concept of peer pressure. For example, asking employees to display charity pins etc., can put subtle pressure on the other employees to do the same.

Summarily, the ELM theory predicts that if the other party is motivated and able to consider an elaborate message, communicators should use factual, rational arguments; they should focus on emotional messages when the audience cannot or will not consider an elaborated message. Knowing when to use which technique and its cues is important in a negotiation setting; sometimes, a peripheral message might enable the party to get an issue resolved or a point cleared when the central message does not work.

5.3.3 Other Theories of Persuasion

There are various other theories of persuasion that can be applied to different negotiation scenarios. The *social judgment theory* emphasizes using the audience’s existing attitudes; a message that falls in the other party’s latitude of rejection will fail to persuade while one that falls within the latitude of non-commitment or at boundary of latitude of acceptance will succeed.

The *cognitive dissonance theory* states that persuasion is a response to inconsistencies in beliefs and actions. Negotiators can use dissonance, which occurs when two stimuli or pieces of information contradict each other (Festinger, 1957), and come up with a solution that reduces the dissonance. The magnitude of dissonance is also important here. This theory is often seen as a post-decision one, meaning that individuals attempt to persuade themselves after making a decision (Gass & Seiter, 2003).

The *narrative paradigm* propounded by Fisher (1984) states that persuasion is not a rational process as much an emotional one that focuses on storytelling. Thus, the most persuasive

message is not one of rational facts but a narrative, one that can succeed because of the “good reasons” for that particular behavior or belief to occur.

5.3.4 Types of Persuaders

In a negotiation scenario, it is also important to know what kind of *traits* the other party’s negotiators have (for when one is the audience). According to Edelman and Crain, there are four dominant categories of traits of negotiators that can lead to negative behavior or the reverse of conflict resolution:

- Attackers/defenders are aggressive and look at the other party negatively. They are black-and-white communicators who don’t see the point of moderate behaviors.
- Avoiders are those who are in denial mode, due to which any communication on problems or disputes becomes impossible (since they won’t acknowledge its existence). These can cause serious impasses.
- Accommodators are over-compromising by nature and motivated by fear. They prefer giving in to fighting for their stand, but also see themselves as victims. As such, they accomplish nothing.
- Stalematers are those who do not want to move forward. They are stuck to their own positions and do not want to acknowledge the presence of the other party’s issues or opinions. Being right is more important to them in the negotiation setting than mutual resolution of conflict.

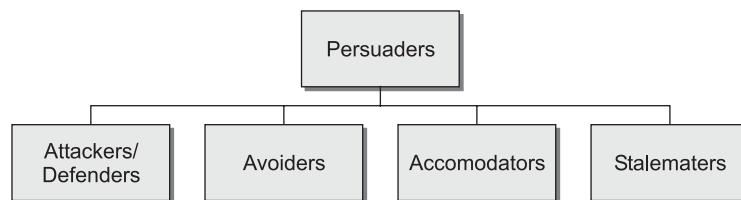


Figure 5.6 *Types of persuaders*

Persuasion by *skepticism* is a powerful tool often used by parties to undermine the other side’s argument or stand. Questioning the information of the other party in a way that makes them think again on their sources can cause negotiators to be less confident or certain, and turn the negotiation in one’s favor. This is not to be done only to put down the other party’s points, but also as a defensive tactic when information that is not obvious is presented as fact.

Similarly, persuasion by *persistence* can be used as a compelling approach that, due to its steady and determined nature, can lead to a positive outcome for one’s issues. It is important when using this tool to be non-confrontational or aggressive. Being in control is one of the critical factors; knowing that nothing can shake your stand after various tactics, defenses or even attacking behaviors can cause the other party to ultimately back down or give in to your points.

5.3.5 Communication through Persuasion

According to Peter Thompson (author of *Persuading Aristotle*, there are four principles of persuasion that must be used in a negotiation scenario for a more effective outcome.

- *Frame the question around the issue:* It is well known that how one frames a statement or opinion can make or break an argument. The best approach here is to present the issue in a way that is most favorable to one's outcome aims.
- *Create persuasive arguments to the question:* There are three factors to a good persuasive argument—*logos*, or logic (rational argument), *pathos*, or passion (emotional argument), and *ethos*, or character (negotiator's credibility). Each of these works in different ways and can be used separately and in combination to win a negotiation.
- *Use persuasive language:* There are various ways language can be used in a negotiation. Common tools include the use of metaphor, humor, demonstrative or deliberative arguments, storytelling, and visual or auditory aids.
- *Match non-verbal cues to verbal communication:* Creating a communication pattern where conflicting cues or filters (such as prejudices, cultural frames, semantics, etc.,) can be eliminated or reduced from one's communication.

Ethos refers to the credibility of the persuader in the eyes of the persuades on the subject the person is trying to persuade them on

Pathos refers to passion and emotion in the content of the message

Logos refers to logic and reasoning in the content of the message

5.4 DECODING COMMUNICATION FOR NEGOTIATION

Communication in negotiation is, intuitively, imperative. As we see above, negotiation itself is a kind of communication—one that is used to share goals and interests, resolve disputes and conflict, and reach an effective outcome.

Successful communication occurs when information is shared in a way that leads to mutual understanding. This means that it must be not only transmitted thoroughly, but also decoded correctly by the other party. In reality, this does not always happen successfully, as we all know. Going by the basic model of communication (described before), distortions and changes can occur at any or all of the stages:

- The *senders* and *receivers*, or parties in this case, not only have fundamental individual differences that can lead to distortions, but also differing aims and interests in the negotiation, whereby they want the other to adapt. The larger the number of differing goals, the more significant is the disconnection.
- *Encoding* and *decoding*, the process where the actual content of the message is translated into or from symbols to establish meaning, can have errors that lead to lack of understanding.

- The *media* used—verbal, non-verbal and written—can have issues such as incongruent verbal communication and body language. Varied frames of reference in the language of written communication, as well as lack of understanding of the other parties' styles and symbols for messaging can affect the negotiation.
- The channels used—airwaves for verbal communication, ink and paper for written communication, and so on—can cause *channel noise*. This can lead to distractions, confusion and even failure in the negotiation process.
- *Feedback* is the reaction or response made by the receiver. In negotiation, feedback can influence the offers made, the evaluation of outcomes, the counteroffers and even the goals of the parties. Distortion in this stage can thus affect all of these processes.

In general, while content has 7 per cent impact on communication, 38 per cent impact comes from the way the words are communicated in terms of tonal quality and style, and 55 per cent impact comes from the body language

It is important to understand *what* is communicated during negotiation. While the content of the communication is only partly responsible for the outcomes (Olekas, Smith and Walsh, 1996) it is certainly one of the critical factors. Other factors such as what is not directly communicated, or what can be gleaned from the parties' actions come into play as well. Some of what is communicated in negotiation is listed as follows:

Offers and motives

Every negotiator has a list of ranked preferences in mind when they come into the process. It is these that influence the communication of offers and counteroffers. The preferences are a good indication of the motives of the negotiator as well, which get communicated during the process, directly or indirectly. In a study conducted by Langner and Winter (2001), it was found that negotiators whose motives were *affiliative* (relational—having friendly ties with the group) communicated more positively to reduce conflict and move toward agreement, while those with *power* motives were more inclined to reject concessions and veer toward conflict.

Information sharing

Other than offers and motives, information sharing is a very significant aspect of communication in negotiation. In a study conducted by Pinkley (1995) and Pinkley, Neale, and Bennett (1994) on having a BATNA versus its communication to the other party, it was found that communicating an attractive BATNA to the other party was more advantageous in the ultimate outcome (i.e., receiving it in full). It must be noted, however, that the *manner* of communicating the BATNA is also crucial—subtlety can add to the process while being aggressive can be misconstrued and cause adverse outcomes.

Sharing information about *outcomes* also has its own effects. In a study conducted by Thompson, Valley, and Kramer (1995) on how winners and losers evaluated their outcomes (winners being those with more points in the study scenario), it was found that the subjects evaluated the outcomes equally when they did not know how well the other party had done. However, when they found that the other party had done better or were happy with the

negotiation outcome, they tended to evaluate their own outcome as less positive. Other studies have also found that the presence of comparison information itself causes a less positive evaluation in subjects, even if it is about the other party being relatively dissatisfied. This evidence is vital in understanding how much and what information should be communicated to the other party, especially in long-term relationships or where the parties expect to negotiate together again later on.

Social accounts

This is the communication used by parties in negotiation to *explain* things to others. It is especially used when negative information needs to be communicated. This can take three forms of explanations, according to Sitkin and Bies (1993):

- Mitigating circumstances, where the party shows that they had no other choice.
- Exonerating circumstances, where the negotiators showcase broader perspective and the positive motives behind a negative outcome.
- Reframing, where the outcome is explained in a different context to show its advantages

Using more than one type of explanation in a negotiation is likely to help the party reach better outcomes, and the negative effects that might be present can be reduced in intensity by doing so.

Communicating about the process

This kind of communication is especially important in a conflict or dispute, where clearly communicating the effects of the process itself can halt the negative spiral and bring to the notice of the parties their counterproductive behaviors. This may in turn speed up the process as well as reduce contentious content in the negotiation.

How does communication occur in negotiation? This is as important as the content being communicated, as seen through various studies on different aspects of communication.

Language in negotiation works on two levels: the *logical*, including proposals and offers, and the *pragmatic*, that is syntax, semantics and style. The meaning that is conveyed is a combination of both these levels, such that the final message transmitted includes what is said, how it is said, and the below-the-surface messages that may be communicated or perceived. As such, whatever the outcome of the negotiation is supposed to be, the communication is dependent on the ability of the parties to encode and decode messages effectively. Many factors can affect this, such as cultural or gender differences.

In a study conducted by Simons (1993) on language patterns in communication, it was found that those who communicated interest in *things*, that is the substance of the negotiations, along with *people*, that is the relationship with the other party, were able to get better outcomes than parties who communicated only on one of the two elements. Simons also found that *stage setting* or early discussion in the negotiation process was critical in defining issues and getting integrative outcomes. He found that linguistic patterns from the first half of negotiations were a better predictor of agreements than those from the second half.

Non-verbal communication, which includes facial expressions, head movements, body language, tone and pitch, etc., is a very big chunk of anything that is communicated, as we all know. This applies to negotiation settings as well; since it is a deliberate and coordinated activity, there are certain behaviors that can be used to one's advantage in the process. These are called *attending behaviors* and include eye contact, adjusting body positions and using non-verbal cues (like nodding, smiling, and head shaking) to encourage or discourage communication from the other party.

Communication *channels* and their use in negotiation can create differences in what is being communicated, perceived and understood. In everyday situations, negotiations need not happen face-to-face; they can occur over the telephone, in writing and through a variety of electronic media. When the last of these is used, it can be known as *virtual* negotiations. The importance of social context in virtual communication is of major significance in today's times. Email, for example, is one of the most widely used channels of communication. It is often seen as an informal written medium when compared with other channels like telephone or face-to-face conversation, due to the lack of social cues in the same. Thus, we need to understand how an activity like negotiation is influenced by such channels, and how much the presence or absence of social context matters in the outcome.

Drolet and Morris (2000) have found that parties are more likely to develop rapport when they communicate face-to-face, while Valley, Moag, and Bazerman (1998) have found that in such a scenario, parties are likely to be more truthful with each other in information sharing. They also found that written communications are more likely to end in impasse. Croson (1999), on the other hand, found that email negotiators tend to reach more equal agreements than face-to-face ones, possibly since this channel allows greater equality to negotiators. However, research also shows that email negotiation lacks *schmoozing*, which is off-task or relationship-oriented communication along with the substance of the negotiation, which can help build rapport.

Some rules for virtual negotiation that may come in handy are given below:

- Attempt to create face-to-face rapport before virtual communication, and early on. If it is not possible, include schmoozing into the email communication.
- Clarify the roles of everyone present in a virtual negotiation; for example, teammates on both sides in a conference call.
- Keep emotion in check; when it needs to be expressed, label it correctly and explain its presence.
- Be clear about offers and counteroffers and follow a normative path in the negotiation.
- Ask more questions than strictly needed, since the lack of face-to-face communication means inferences might be (erroneously) made more often.
- In written communication, ensure that commitments made are realistic and you do not communicate anything that can be disadvantageous to the process.

- Make as much effort as is possible to develop a style that works for the main communication channel that you have to use. Stick to ethical tactics and make a stand if the other party does not do the same.

5.4.1 Improving Negotiation Communication

There are three established ways to improve communication in a negotiation setting.

Questions

A simple and obvious method of communicating and clarifying information, this is used often in varied ways. Nirenberg states that questions are usually of two distinct types: manageable ones that create attention or prepare the other party for further questions, help one to get information, and generate thoughts; and unmanageable questions that create difficulty, give away information, cause anger or defensiveness, and bring the discussion to a false conclusion.

Questions can also be used tactically in impasses or conflict situations by good negotiators. Further, they can help in confronting the other party about their behavior and consequences thereof, and to leverage out of a deadlock.

Listening

It is said that we have two ears and one mouth for a reason: listen twice the amount that you talk. There are three forms of listening that can be used in negotiation:

- Passive listening, where one receives the message but gives no feedback about the accuracy or completeness of the message, which can be used with a talkative other party.
- Acknowledgment, where receivers occasionally nod their heads, maintain eye contact, or interject responses like “I see,” albeit causing the sender to believe that they agree.
- Active listening, which was first propounded by Carl Rogers, about counseling and therapy.

Here, the receivers paraphrase the sender’s message in their own language. This technique may not be considered the most effective in business negotiations, but when used to understand the priorities, frames of references, and positions that the other parties are taking, it can help negotiators reach a better agreement.

Role reversal

Blindness of involvement, as suggested by Rapoport (1964), is when arguing from one point of debate leads to the party not recognizing the compatibility of its goals with the others’ goals. Here, it is important to gain an understanding of the other party’s perspective. This enables negotiators to understand the other party’s point better, which they can do by actively arguing the others’ positions until the party in question (i.e., the receiving party) is convinced that their point has been understood.

To conclude, parties must keep in mind that closing communication during negotiation is a process in itself. It is imperative that they avoid making major mistakes at this stage that can cause a breakdown in the agreement. It is also critical that *closure* is achieved on both ends, where the agreement is recorded in writing and any negative behaviors, such as nit-picking or second-guessing, are dealt with carefully and constructively.

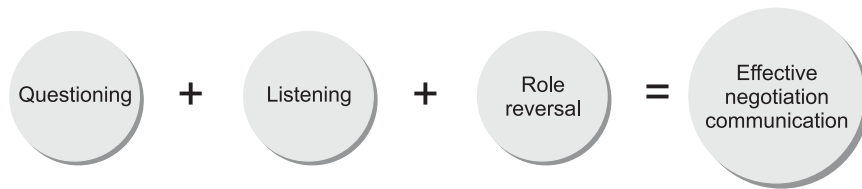


Figure 5.7 *Elements of effective negotiation communication*

Ultimately, it is important that there exists a fair process of communication in the negotiation setting, such that all parties and their opinions are listened to with the aim to create a mutually beneficial outcome.

Summary

Communication is as important in negotiation as it is in any other human interaction, sometimes even more so due to the nature of the negotiation itself. This chapter includes the basics of communication, explained via the Linear model of communication by Shannon and Weaver, Berlo's Interactive model, and Barnlund's Transactional model. There is a focus on the kinesthetic type of communication to explain how one can be a better negotiator by using this approach in various ways or settings. Also significant in this part of negotiation is persuasion and its various theories, such as the Stimulus-response model, which takes a rational approach to persuasion, and the Elaboration Likelihood model, which believes in two distinct ways to persuade the other party. Like the approaches, there are also different kinds of persuaders that exist in a negotiation setting, and knowledge of how to communicate with each kind can be an effective tool for the negotiator. Decoding communication during negotiation, the last part of the chapter, focuses on distortions in communication and understanding the 'what' and 'how' of communication in the setting. Additionally, ways to improve one's negotiation communication are elaborated.

Discussion Case

Monica was an up and coming senior research officer at the National Institute of Science & Technology (NIST). At the age of thirty, she had climbed the professional ladder much faster than most of her peers and held a respectable, if a little envied, position at her office. Her department, the Department of Nanotechnology, had three senior research officers, who led teams of six research officers each and were in turn headed by a head of department, Ankit

Sharma. Monica and Ankit shared an amiable relationship and their families were quite close as well. Being much older to her, Ankit saw Monica as his protégée and mentored her whenever needed. He was in much awe of her perseverance and ability at work. However, Ankit was known around the office to be a very cunning and selfish person. He usually only looked after his own interest and was not well liked by his employees. While Monica had heard coffee-break talk about Ankit's cruelty and inability to lead, she had never experienced that side of him, so she never paid any heed to it.

One afternoon, during a regular day at work, one of the research officers working under Monica, Preeti, asked to be let off early as she had made some plans with her friends. Seeing as there was not much work to be done that day, Monica agreed to let Preeti off early. Later that evening, Ankit called for a sudden meeting with Monica's team as he wanted to discuss a new project proposal to be prepared for the Government of India and he wanted his best team on the job. The team assembled as usual in the conference room, Monica was the last to enter. Ankit looked around and noticed that one of the team members was missing. He asked Monica, to which she replied that she had let Preeti off early upon her request. Ankit, who seemed to be in quite a good mood till then absolutely lost it and gave everyone present an earful. He did not appreciate one of his research officers leaving without giving him prior notice. He was also rather livid about the fact that the meeting could not proceed and that they'd have to hold it the next day as Preeti was the one who specialized in the requirements of that particular project. He would have to answer to his superiors, as this was a very important project. He dismissed the team and requested Monica to stay back for a few moments.

Monica, shocked over the events that had just transpired began to immediately apologize and was quite overwhelmed with Ankit's behavior. He waved her apologies off and told her that it was no fault of her own. He asked Monica to submit a report to him stating that Preeti had left the office without formal permission, which he would forward to his seniors. Having said that, Ankit exited the room, leaving Monica to think by herself. Monica realized that writing the report would reflect very badly on Preeti and that it might affect her future prospects in the office. She also realized that Ankit was taking the easy way out and using Preeti as a scapegoat for not being able to prepare a proposal that day. She decided not to write the report on Preeti and instead, sent Ankit a mail explaining the same. She received her second shock that day when Ankit replied to her mail saying that he would report her insubordination to his seniors and state that the proposal could not be prepared due to her dismissing an employee without consulting with him first. She couldn't believe that he was ready to use her as a scapegoat as well.

Monica went back to her office and dug a little deeper into the matter. She found out that Ankit was in deep waters and not at all on good terms with his superiors. This proposal was not something that could be finished in one day and he just needed a reason to shift the blame onto someone in his team. There was a power play at work in the department and the politics went much deeper than she had first assumed. Ankit was under flak and was using his team as human shields. She called him up that evening and requested him to meet with her once the next morning before making any hasty move. Ankit accepted but also warned her that he was serious and that he did not take to insubordination with leniency.

Points to Ponder on

- Prepare a step-by-step communication outline that Monica could follow in the meeting with Ankit the next day.
- Monica could have never known that a simple gesture like letting an employee go early could have such severe consequences. Do you believe what Monica did was right? Why?
- Determine a persuasion plan that Monica could follow in order to convince Ankit not to use her as a scapegoat.
- What kind of dynamics is at play between Monica and Ankit? What mode of communication would be most apt in the given scenario?
- Considering Ankit is trying to stay out of trouble himself, is there an amiable way this situation can be resolved, without getting anyone into trouble?

Activity

Theme

In free market conditions, a buyer has the option of buying from multiple sellers. Each seller tries to differentiate himself/herself on some basis. The seller also has an option of selling to multiple buyers depending on which buyer is willing to offer them higher prices. Thus, in such a free market condition, each buyer has an option of buying goods from multiple/single seller while each seller too has an option of selling to single/multiple buyers. This activity will help students understand negotiations in a free market.

Trainer's Material

Divide the class into two groups. One group will be buyers and another group will be sellers.

One seller can sell his/her mangoes to multiple buyers and vice-versa. Aim of both sellers and buyers is to maximize profit.

The trainers can assign a different requirement of mangoes, different production cost and different selling price for the mango pulp to make the activity more interesting.

Notes for Seller

You have 100/110/120 kg of Mangoes. You have incurred a cost of 30/35/45/50/55/60 Rupees/kg and hence cannot afford to sell them below this price unless you are willing to make a loss. The unsold mangoes will be of no use and will not fetch you any money. However, government has offered to buy 50 kg of mangoes at a price of __ Rupees/kg (BATNA) at the end of the day. The government will not buy more.

The trainers can assign a different quantity, different cost price and different BATNA to different students to make the activity more interesting.

Notes for Buyer

You are a mango pulp manufacturer. Your requirement is 100/110/120 kg of mangoes. You usually sell mango pulp at a price of Rupees 150/140/160/170 per kg. You incur X amount of manufacturing cost. Hence, these two factors limit the maximum amount you can pay to purchase the mangoes. You do have an option of buying mangoes (max. 50 kg) from the government. However, you are unsure about the quality of mangoes sold. Also, the price at which the government will sell mangoes is not yet known. Based on rumors and past experiences, you expect the government to sell at a price of Rupees 80-100 per kg. Your aim is to buy the required quantity of mangoes from the free market itself.

Exercises

1. Multiple Choice Questions

- i. _____ states that a longer message requires more time to assimilate for the audience.
 - a. Aristotle's rhetoric
 - b. Bartlett's effect
 - c. Schrodinger's cat
 - d. Ockham razor
- ii. Certain behaviors such as establishing eye contact, adjusting body positions, smiling, nodding, etc. that can be used to one's advantage in the negotiation process are called _____.
 - a. attending behaviors
 - b. deceptive behaviors
 - c. responsive behaviors
 - d. reflective behaviors
- iii. The three established ways to improve communication in a negotiation setting are _____, _____ and _____.
 - a. Questioning, listening, playacting
 - b. Listening, playacting, responding
 - c. Playacting, responding, role reversal
 - d. Questioning, listening, role reversal
- iv. Which of the following is considered a method to help overcome personal barriers to effective communication?
 - a. Poor administrative practices
 - b. Impulsive behavior
 - c. Improvement of listening skills
 - d. Engaging in excessive impression management

- v. When Laura Collins, CEO of a top consulting firm in Europe, accomplishes what she states in the meetings and communicates, most often, to her staff via face-to-face communication, she is demonstrating utilization of:
- charismatic leadership
 - decisive management techniques
 - excellent corporate communication
 - impression management

2. True or False

- Peripheral route includes high elaboration and systematic processing.
- Communication channels and their use in negotiation can create differences in what is being communicated, perceived and understood.
- Stalematers are aggressive and look at the other party negatively.
- Negotiation with Avoiders can cause serious impasses.
- Accommodators are over-compromising by nature and motivated by fear.

3. Match the Following

- i. Match the following with reference to the linear model of communication:

a. Encode	1. Disruption of communication between sender and receiver
b. Channel	2. Receiver's perception of the message
c. Noise	3. Medium of delivery
d. Decode	4. Verbal or nonverbal symbols used to express the idea

- ii. Match the following with reference to the Elaboration likelihood model:

a. Peripheral route	1. Knowledge or experience with the topic
b. Capacity	2. Leads to more temporary, vulnerable attitude change
c. Peripheral cues	3. Bottom-up thinking in which facts are scrutinized without bias
d. Objective elaboration	4. Number and length of arguments, humor, credibility of persuader, etc.

ANSWER KEY

- | | | | | |
|--|------------------------|------------|----------|------|
| 1. i. b | ii. a | iii. d | iv. c | v. c |
| 2. i. false (It should be Central route) | ii. true | iii. false | iv. true | |
| v. true | | | | |
| 3. i. a-4, b-3, c-1, d-2 | ii. a-2, b-1, c-4, d-3 | | | |

Exhibit 5.1**Communication Barriers**

- ❑ **Selective Perception:** Senders use *selective perception* to choose the details that seem important to them or what they believe (sometimes wrongly) is important to the receiver. Receivers can distort details that do not fit into their perception patterns or something that upsets them (example: sexist language, risqué humor).
- ❑ **Difference in Meanings:** *Language* is an arbitrary code that depends on shared definitions, including the meanings attributed to gestures and other body language expressions. There could be an asymmetry in this attributed meaning.
- ❑ **Leadership/Organizational Style:** A *restrictive environment* can be a formal communication network that limits the flow of information, so communication becomes fragmented. Also, a directive and authoritarian leadership style, can block the flow of information. The presence or absence of an informal communicational channel/grapevine also impacts communication flow.
- ❑ **Distractions:** Physical *distractions* such as bad connections, ambient sounds, poor acoustics, or illegible copy can block an otherwise effective message. Emotional distractions can also get in the way of your message, especially if they are triggered by something you said.
- ❑ **Deception:** *Deceptive communicators* may exaggerate benefits, quote inaccurate or selective statistics, or suppress negative information. Unscrupulous communicators may seek personal gain by making others look better or worse than they are.
- ❑ **Overload:** People constantly receive messages via e-mail, hard copies, voice mail, websites, regular mail, and cell phones. *Information overload* caused by the sheer number of messages can be distracting, making it hard to discriminate between useful and useless information. Also, the same information coming through multiple mediums may cause irritation to the receiver.



Negotiation Strategy, Tactics and Counter Tactics

Learning Objectives

After studying this chapter, you will be able to

- Implement negotiation strategies
- Explain the difference between distributive and integrative negotiations
- Apply negotiation tactics and counter tactics
- Interpret the role and sources of power in context of negotiation

POWER IN NEGOTIATION

When Venkat Associates (VA) decided to take over the old Renaissance Theatre Company (RTC), they did not expect to face so much hostility. Renaissance was one of the oldest and most popular cinema screens in town, but there had been a public announcement about VA restoring the heritage parts of the building and maintaining its art deco vibe. What the company was focusing on was related to maintenance and operation, but the internal employee resistance was uncalled for.

Indira Venkat, the MD, called for a meeting with the company management on steps to deal with the deadlock. There was no question of moving from their position as the new owners of RTC; that was understood. Should they now treat this as a hostile takeover? Or should they go in for a longer and more peaceful yet risky negotiation process with the employees of Renaissance?

Chetan Reddy, the COO, had his usual fiery response. “Call all the RTC employees for a meeting and tell them that they are being taken over whether they like it or not. Some jobs might be lost in the interim but overall, long-term, this is best for the company,” he said. “They are doing this as a power-play. They knew they were not going to be able to survive without

outside help, now maybe they are trying to squeeze more out of us via the takeover!" Indira heard him out but remained unconvinced. She preferred to start new business relationships and ventures (and there had been many over the years) with a positive position. There had to be another way.

M. Ganesh, the CEO, had another opinion. "Let us go talk to them and tell them the position they are placing us in. We are trying to help them and they are going against us. That makes us weak overall. Once they understand this, I'm sure they will move from their stance."

Reddy was furious at this. "You basically want to go and beg them to change their position? Who are we, their employees or vice versa? Do you not realize how we will be perceived by them and the market if we do this?" Ganesh stuck to his guns, however. "It is a legit move on our part. We have to show that we are there to help if we want them to turn around to our objectives," reasoned Ganesh. "Not necessary," said Reddy. "We can coerce them if need be since we are the ones taking over. It is understood that this has to be done if they are going to continue on the path of resistance."

The rest of the management team, listening to the dialogue between two of their senior executives, was silently divided. Both were correct and wrong in their own way, but how was this deadlock to be resolved without letting it become an internal power issue or one that created more problems in the takeover? This was when Natarajan started to speak. A soft-spoken man, Natarajan looked nothing like the formidable veteran that he was in the industry. Slight of build and simple in his ways, he was nevertheless the giant in the room. When he spoke, people listened. "There is no point coercing the current employees since we would like to retain most of them. Neither is there a need to wheedle them into changing their stance. That can be perceived as a lack of ability and strength on our end," he said. "Let us find somebody in RTC or their partners who they will listen to and utilize this means to make sure the takeover goes smoothly. In the meanwhile, let us also gather our resources and begin our internal procedures so that when it comes to pass, the takeover is as problem-free as possible even if it is ultimately a hostile one. We must be prepared."

The team understood the logic of this proposition. Coming from Natarajan, it also had the power of persuasion of decades of experience and quiet confidence. They unanimously agreed to it.

6.1 INTEGRATIVE AND DISTRIBUTIVE BARGAINING

6.1.1 Integrative Bargaining

Integrative bargaining (also called *interest-based bargaining* or the *expanded pie approach*) is a negotiation strategy popular since the 1970's, in which parties try to resolve their dispute by looking for a "win-win" solution. In the negotiation context, the term *integrative* refers to the possibility of the parties coming together to combine their interests in a way that "enlarges the

Integrative negotiation is a win-win approach that is based on a collaborative strategy where both parties are equally assertive and cooperative; ideal when both parties want to keep the relationship

pie” instead of dividing it. This possibility only exists when there are multiple issues involved in the negotiation setting, such that trade-offs are possible. Integrative bargaining is usually more effective than positional (distributive) bargaining, which is based on fixed, opposing viewpoints or positions and where the outcome is usually a compromise (through splitting the difference between diverse positions), or leads to a lack of agreement. Integrative bargaining, with its creativity, can lead to all parties having their goals satisfied. This further reduces negativity in the scenario, as well as creates a constructive, positive relationship between the parties with a chance of long-term goodwill.

Thus, integrative bargaining focuses on finding mutually beneficial outcomes that consider the interests of all parties involved. *Interests* are the needs, desires, concerns, and doubts of each party that influence their goals and aims and can become the reasons for issues or conflict. There is a classic example: two girls and an orange. Both the girls take the position that they want the whole orange. Their mother cuts the orange in half and gives each girl one half. This outcome represents a *compromise*. However, in another scenario, when the mother asks each of them why they want the orange (i.e., their interests), she finds that one of them wants to eat the pips, while the other wants the peel to use in baking a cake. Thus, they both get what they want.

Integrative negotiations are based on interests as against distributive negotiations, which are based on positions and posturing

There are *key steps* in the integrative negotiation process. The *categorization* method is used here.

Exchanging information and identifying issues/interests

There can be many interests behind each party position. As such, identifying these interests will increase the possibility of win-win, joint-value outcomes. This identification takes time and effort, especially because interests are less tangible than positions and often not publicly revealed. A key approach to determining interests is asking *why* questions. The parties also need to learn about each other’s interests and concerns, which can later help find commonality. In this step, identifying one’s own issues and learning about the other parties’ interests and concerns is crucial. Key techniques include the following:

The communication strategy for integrative negotiations includes fully open throttled exchange with no lying or deception and asking open-ended questions

- Using active listening skills
- Asking open-ended questions and getting as much details as possible
- Showing empathy for the other party’s issues or interests
- Figuring out the parties’ willingness, the potential and points for trade-off later
- Communicating clearly one’s own interests, needs and concerns
- Refraining from negative comments, personal attacks and other such behaviors

Interests can be of various types. Lax and Sebenius (1986) have proposed a number of interests that can be present in a negotiation setting, categorized as *intrinsic*—having value in themselves, and/or *instrumental*—having value as they help bring about future outcomes.

- *Substantive* interests relate to the main, tangible issues under negotiation, such as the price, division of resources, etc.
- *Process* interests relate to the manner in which a negotiation happens. Differences in process by the parties can lead to more disputes or lack of resolution.
- *Relationship* interests indicate the value the parties attach to a good relationship with each other, during the negotiation as well as in the long term.
- Interests in *principle* are when parties have certain principles such as what is fair or ethical according to them and these serve as their guide.

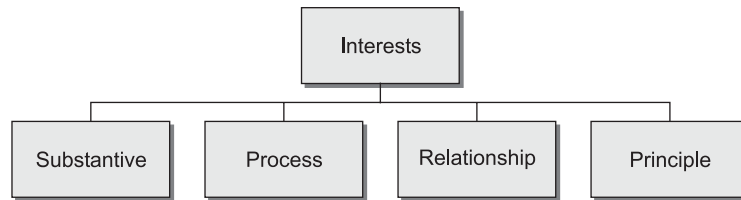


Figure 6.1 *Interests in negotiation*

Each of these can be intrinsic as well as instrumental in nature.

Develop a list of commonalities between parties

Once interests and issues have been identified, parties need to create a list of all possible areas of interest for mutual benefit. Not all goals and interests will match: there are three ways to classify them.

- *Compatible issues*: Those with identical or similar goals, where agreement will be easy
- *Exchange issues*: Those of generally equal importance that can be used in trade-offs for achievement
- *Distributive issues*: The outcome is split between the goals or interests

It is important to remember at this stage that there can be various underlying interests behind an issue, and that they are rooted in human value. Having more than one interest as a priority is very common, though these can change during or even after the negotiation. The method of communication or *surfacing* these can also differ based on the party, the setting and the interest itself, and care must be taken to ensure that this is positively done. Also, pushing only the interests without focusing on the ultimate goals and outcome of the negotiation can be as harmful as not focusing on them at all.

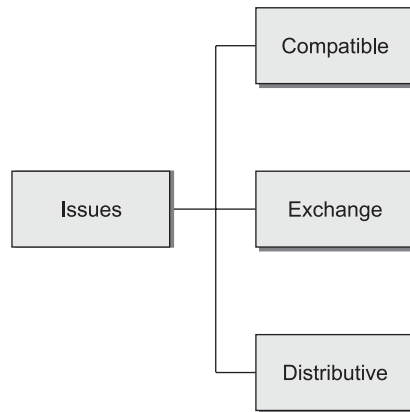


Figure 6.2 *Types of issues in negotiation*

Reaching agreement on compatible issues

This is the easiest step since all the parties have already agreed on these issues. However, focusing a little on how this process happens can bring in an environment of goodwill that might help skate over the sticky issues later. Sometimes, the common goals are easy to reach, while at other times, it can take a while to get here. The manner in which parties behave during this session can be a predictor of the future relationship.

Trade-off on issues

This is the main part of the integrative bargaining process. Once the compatible issues have been dealt with, the non-compatible ones are taken up here. The parties can suggest an open brainstorming session where they decide which party gains position on which issue, trading off one against the other amicably. If all issues are resolved at this stage, the negotiation is considered complete.

Unresolved issues

If there are still issues remaining to be dealt with after the trade-offs, then the fifth step comes into play. This is essentially the last items in a long list, where all other methods towards resolution have been considered. These last issues are then resolved through distributive bargaining. Since the parties have already resolved so many other issues, this technique does not lead to as much negativity as it would in an overall scenario. The time and effort already invested see to that.

Alternative solutions

According to some researchers, it is important to have a creative process to arrive at solutions in integrative negotiations. Each issue or item can have alternative solutions that are decided upon in the last stage. This can be done in two ways:

First, **coming up with** options or solutions through redefining the problem. The methods in this category focus on getting progressively detailed information about the parties' needs and interests. They include *expanding the pie*, i.e. increasing resources; *logrolling*, where there are multiple conflicting issues, and each party receives their most preferred outcome on some number of issues based on priority; using *non-specific compensation*, where if one party gets their preferred solution, they pay off the other party in some form for accommodating the issue. For this, it is important to know what the other party values and how much they are losing out on by agreeing on one's issue. *Cutting the compliance costs* is another method, where if one party agrees on the other party's issues, the former's costs on that issue are minimized. Also, finding a *bridge solution* may work here when the parties invent new options to resolve their respective issues together for a new solution completely.

Second, **generating** solutions where the problem is a given or cannot change has a number of methods as well. This includes *brainstorming*, where a group of people come up with as many ideas as possible that are later evaluated and decided upon. *Survey* or *questionnaires* can be used as a method when the opinion or intellectual ability of those who are not present in the negotiation (i.e., other stakeholders) is required.

Factors for successful integrative bargaining

Integrative bargaining is a complex process by nature and requires various things to be in place if it is to be used effectively in negotiation settings. Some of these are given below.

❑ **Willing participation, motivation and commitment of parties** An important milestone in a negotiation setting is when all members of the scenario agree that integrative bargaining is to be used as the process. If one party is not willing to be open and create new/mutually beneficial solutions, then it can hinder the negotiation. All members must be committed to reach goals that are universally preferred. For this, they need to let go of negativity, conflict, and other issues that may turn the setting into a distributive one. One of the ways of enhancing motivation and commitment, according to Gillespie and Bazerman (1998), is having *pre-settlement settlements*, where the settlement occurs before the actual negotiation, results in a legally binding agreement and can establish a framework for the negotiation and issue resolution to take place.

❑ **Recognition of the relationship** When both parties value a fruitful, long relationship, it is easier to have an integrative bargaining scenario. Here, negotiators may openly recognize that they value a long-term relationship more than one-time distributive gains to set the scene. If this is not done, the negotiation may turn into a distributive bargaining process.

❑ **Packaging of the issues** This refers to the combination of issues in a way that makes them easy to trade-off in the negotiation process. This is especially important when there are a large number of items in contention, and has distinct advantages of adding speed to the process and enhancing the ability of the members to package issues that are equal or have commonalities.

❑ **Collaborative atmosphere and presence of trust** This can be created by having a clear idea on all the possible negotiable issues on one's side as well as considering the needs and interests of the other party. This includes not assuming that one knows about the other party's concerns; instead, focus is on listening and probing to understand implicit (non stated) needs. Unlike distributive bargaining, where the parties inflate the value of their own position or needs and deflate that of the opposing party. Here, negotiators must accept that the other party's desires and interests are also valid (Fisher, Ury, and Patton, 1991). Being distrustful, defensive or withdrawn are hindrances in this process—the moment one party believes this of the other, it causes a downward spiral that usually leads to conflict or the lack of an effective outcome.

❑ **Common objective or goal** There are three types of goals that enable integrative negotiation. A *common* goal is one that is shared equally by all parties, where each party benefits more from working with the other than not doing so. A *shared* goal is one that both parties work towards, but where each party benefits in diverse ways. A *joint* goal involves parties with different goals agreeing to combine them for a collective effort.

❑ **Communication** Clear and precise communication is one of the crucial factors of integrative negotiations. Parties must be ready to communicate information about themselves, their goals and concerns. Second, all parties must understand incoming information such that they can respond correctly. Further, having multiple channels can provide opportunities to the parties to communicate more fully. However, it must be understood that the message across these channels is consistent in nature.

In spite of research and guidelines given on this process, integrative bargaining is not easy to achieve, especially with parties in conflict. It is important to be able to maintain an environment of positivity and responsibility for integrative solutions to be created.

6.1.2 Distributive Bargaining

Distributive bargaining, also known as *claiming value*, *fixed-pie*, *zero-sum*, or *win-lose* bargaining, was first propounded as a concept by Walton and McKersie in their work *A Behavioural Theory of Labour Negotiations*. It is a negotiation strategy used to decide the distribution of a fixed resource, such as money, with each party attempting to ensure that it gets the largest "share" —the more one party claims, the lesser the other party receives. As such, this is a competitive strategy where parties view each other as adversaries. Their main objective is to maximize self-interest without too much concern for the other party or a mutually beneficial relationship, and their focus is only on the current negotiation scenario. Often, distributive bargaining is used even if parties have an ongoing relationship or possibility for future work together since their main aim is achieving their own goals at that point.

Distributive negotiation is a win-lose approach that is based on a competitive strategy where parties are more assertive than cooperative; ideal when future relationship is not important

The process of distributive bargaining consists of the interplay between one's BATNA and that of the other party. The main objective here is to negotiate an outcome that is closer to one's

own goals than the other party's. This is also called knowing one's *reservation price*. While each party's preferred price, known as the *target*, is their goal for closing the negotiation, it rarely works out that easily. Galinsky, Mussweiler and Medvec (2002) found that target points influence negotiator outcomes as well as negotiator satisfaction with them. Similarly, *initial offers* (the first price quoted) are important to the bargaining outcome. The point beyond which the party will refuse to budge is their *resistance point*, whether it's the highest amount they are ready to pay (buyer) or the least amount they are willing to accept (seller). The difference between these is the *zone of potential agreement (ZOPA)*, also called the *bargaining range*. This can be positive—where the party's minimum selling price is lower than the other party's minimum buying point, or negative—when the reverse is the case.

There are two important action points in distributive bargaining:

Discovering the other party's resistance point

Confidence in distributive negotiation is very closely linked to the amount of information one has about the other party and how much information is given out to them from one's side. While it's important to hold on to one's own resistance point, target and other similar information, certain details can be given out to the other party. Communication in these situations is fraught with complications.

Influencing the other party's resistance point

A resistance point is based on the value expected from an outcome. It can also be influenced by the cost the party attaches in delaying or deflecting the negotiation, or the cost attached to killing the negotiation completely. These factors interact and affect the negotiation in many ways:

- The higher the other party's estimate of one's cost of delay, the stronger their resistance point will be. If they see that you need a settlement quickly, they might defer it for a better outcome for themselves.
- The higher the other party's estimate of their own cost of delay, the weaker is their resistance point. Typically, the reverse of the above.
- The lesser the other party values an issue, the lower their resistance point will be. This can help the other party negotiate better if they can figure out the value and convince them to adjust their resistance point.
- The more the other party believes one's own party values an issue, the lower their resistance point is. Convincing the other party that an issue of great value to one's party can help in getting them to reduce their resistance to it.

The role played by *concessions* in the distributive bargaining process is huge. All parties need to make them for a negotiation to even exist. Good negotiators begin the process such that there is enough space to maneuver towards their resistance point if needed, such that some concessions can be made. They also try to identify the other party's target point so that the process is smoother.

The communication strategy for distributive negotiations includes partially open throttled exchange where not revealing all the cards may work better

Further, they might not like a rigid stance like “take it or leave it”, especially if it comes too quickly in the negotiation. In other words, getting to one’s resistance point gradually rather than throwing the last of one’s figure on the table leads to more satisfaction overall. Rubin and Brown (1975) have stated that this is because negotiators prefer to think that they are capable of changing the other party’s actions, or influencing them to choose a certain solution. This is indicated when concessions have been used and worked through. Intangible factors like the need for status and recognition may also be at play here. Communication is a major factor here as well, since reciprocity and acknowledgement of the concessions can have an effect on the future ones and therefore the outcome of the negotiation.

Negotiation, in reality, is complex and layered. Members of each party bring their own personality differences and communication styles along with the party positions, interests and concerns. Thus, the process has certain *norms* that can be used as accepted practice and guides for behavior. There are four main types of norms in this context:

- *Relational norms* pertain to a party’s desire to maximize self-gain while also managing relationships and rapport with the other party. Finding the balance between these two can be tricky and can cause stress on all those involved. The need for this norm is that many negotiations are not one-time or simple in nature, such as buying a house.
- *Fairness norms* are related to consistency in negotiation. In psychology, there is a concept called the *consistency principle*, which explains the human need to appear fair and reasonable. Understanding where the other party stands on this norm can be a major influencing factor for a party to gain leverage by using it advantageously.
- *Reciprocity norm* refers to the human tendency to respond to other’s actions with equal or similar ones. This can be for positive as well as negative action—for example, a hostile action or communication can lead to a spiral of negativity that creates an impasse.
- *Good faith bargaining* involves the human expectation of fair behavior from the other party. These include an expectation that they will honor their commitments made during negotiation; that they are willing to discuss issues and make proposals for their resolution; that they are willing to compromise; and that they will be honest and transparent in their information sharing.

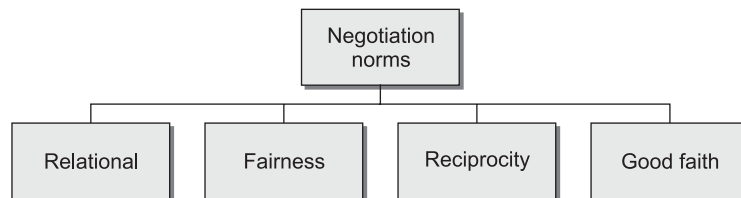


Figure 6.3 *Negotiation norms*

There are various differences between distributive and integrative bargaining as is summarized below (adapted from *Getting to Yes* by Fisher and Ury).

Table 6.1 Differences between Distributive and Integrative Bargaining

Distributive Bargaining	Integrative Bargaining
Parties see each other as adversaries	Parties see each other as problem solvers
Ultimate goal is their own victory	Ultimate goal is mutual gains
Parties usually demand concessions	Parties work together to figure outcomes
Parties may hold on to their position	Focus is on interests more than positions
They use various hard tactics and tricks	They are more open about interests, and use fair principles
They insist on their own positions	Insist on objective criteria and consider multiple answer
They apply pressure on the other party	They use reason and focus on principles, not pressure
They look a bigger piece of the pie	They look to expand it, and find win-win outcomes

In spite of its potential for causing negativity and ineffective outcomes, distributive bargaining, when used correctly, is critical to negotiation situations since there are always some inherent zero-sum scenarios that cannot be resolved any other way. Fisher, Ury, and Patton argue that this is not the case; they believe that parties can creatively work together to expand the pie and create outcomes that benefit all sides in most negotiation settings. In reality, distributive bargaining is frequently seen as the opposite of integrative, but they are not mutually exclusive. Distributive bargaining plays a role in integrative bargaining, as we have seen above. While integrative bargaining is meant to expand the pie as much as possible, parties need to use distributive bargaining at the end for unresolved issues. If they can expand it optimally, distribution can become easy.

6.2 SOURCES OF POWER IN NEGOTIATION

Power is one of the most visible and crucial factors of a negotiation scenario. It can be acquired and used in the setting just like it can in organizations or other life situations. Bell (1999) defines it as an “exchange of influence”, where it can be *power over*, demonstrated by leverage or control, such as in a distributive setting, or *power to*, which is empowerment, such as in an integrative negotiation. Power is also dynamic and can change or move based on the negotiators, their rapport and relationship, how this changes over the process, and their communication styles.

To understand how power is exercised and used in negotiation, it is important to understand where it comes from. One of the first studies in this area was conducted John R. P. French and Bertran Raven (1956), who described five general sources of power.

- *Reward power* is the control of resources that can be used as rewards during the negotiation. A common source of power, this is used widely by those who have it.
- *Coercive power* consists of the control of resources that can be used to impose one's will and goals on the other party; i.e., power to coerce them into an outcome that is favorable for oneself. It can also imply the ability to punish others for not doing what needs to be done by them, and using this to get something out of the negotiation.
- *Legitimate power* refers to the authority one has due to one's own or an ally's position. This kind of power need not come from rank in a negotiation; it can simply be with those who are the key decision-makers in the setting.
- *Expert power* refers to power that comes from controlling knowledge or information. It can be exerted in various ways—by showing that one is in control of the information, by choosing not to give away to the other party, by communicating it at critical moments, etc. This is also true of expertise or special skills that the negotiator might possess, which can give the information they control even more weight.
- *Reference power*, in general terms, is charisma. It is the power that comes from being attractive to others, due to attributes of personality, interpersonal style, communication and other factors. In negotiation, it is more of a technique that includes understanding what the other party wants, creating collaboration or positivity and contributing to achieving the ultimate outcomes. Reference power here can be wielded through the ability to use knowledge, one's determination and confidence, as well as one's reputation and past performance.

Reward power is the control of resources that can be used as rewards during the negotiation.

Reference power comes from being attractive to others, due to attributes of personality, interpersonal style, communication and other factors

While these sources as presented are still used widely, there have been elaborations and changes made to the theory since it was propounded so many decades ago. In terms of negotiation and power, there are five different categorizations that have been made.

1. Informational Sources of Power

This is one of the commonest sources in a negotiation. It comes from a negotiator's ability to find, assemble, analyze and use data or information that is powerful in bringing about effective outcomes. Further, presentation of information is an important factor here (Raven 1993). It can be presented directly to change the other party's stance, or indirectly through various channels to confront subtly or convince the other party without being perceived negatively.

2. Personality and Individual Differences

This includes power derived from personal orientation. It includes, firstly, *cognitive* orientation, which refers to ideological frames of reference such as unitary, radical or pluralist frames. Second, there is *motivational* orientation, which focuses on differences in the energizing elements of personality, i.e., the motives of using power. Third, *moral* orientation refers to differences in moral ideas about power and its use. Finally, *dispositions and skills* of people differ based on their need to be either cooperative or competitive, thus creating diverse types of personality and power use.

3. Power Based on Organizational Position

This comes from being positioned in a particular space or level in an organization or communication framework and leads to different kinds of leverage like legitimate power and resource control.

4. Relationship-based Power

This includes power that comes from three kinds or relationships in negotiation, including *goal interdependence*, where the difference between goals perceived as cooperative or competitive change the way power is used; *referent power*, relating to respect or admiration of the party; and *networks*, which comes from having access to resources, people and information that can be leveraged.

5. Context-based Power

This is the specific kind of power that can be derived from the current setting, including BATNAs and their availability, organizational and general culture, and external audiences and agencies like other stakeholders and media that can directly or indirectly influence the negotiation.

Apart from the above categories, power can also come from other sources like control over a decision-making process (procedural power), knowledge and leverage of legal rights and definitions (legal power), influence based on values of fairness (ethical power), and the ability to form alliances and networks (political power).

Since power has so many sources that can be present in differing ways and proportions, those with less power can build a power perception in many ways as well. For example, a party with less control on resources can enter negotiations with a powerful ally or an expert, while a party with a large amount of information can use it to make up for lack of legitimate or positional power.

6.3 NEGOTIATION TACTICS AND COUNTER TACTICS

Tactics are used across negotiations of all kinds. They are used most often in distributive bargaining settings to add pressure on the other party to give in to one's own goals or demands. However, their wide use has not been empirically backed by evidence of consistent effectiveness; it is often difficult to say which tactics work and to what measure, in different kinds of negotiations. According to Schneider (2002), they can also backfire and demonstrate a lack of expertise or skill on the part of the negotiators who regularly use them. Often, their use can be considered offensive and non-normative, and can lead to lack of agreement or outcome, negative atmosphere, souring of relationships, and loss of reputation.

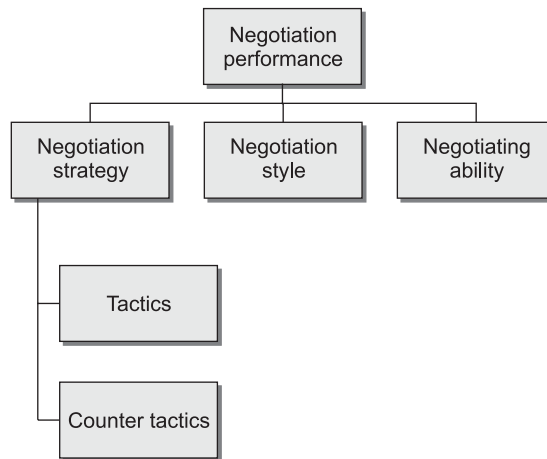


Figure 6.4 *Elements of negotiation performance*

6.3.1 Types of Tactics and Counter Tactics

Tactics are of various types. Every tactic has a corresponding counter tactic, which can be employed to tackle the issue or situation at hand. Some of these are listed below with their corresponding counter tactics:

Good guy, bad guy

Everyone knows what this means in a police situation, which is where this tactic gets its name. In a negotiation setting, one member of the party will present a tough stance and opening position, including negativity, after which the other negotiator will intervene and attempt an agreement by being positive. In some situations, the “bad cop” might only behave so in the presence of tough issues or conflict. Either way, an easy way to counter this is to openly acknowledge its use by the other party. Using humor to do so if possible can also be critical, since it is important to keep the atmosphere positive while defeating the other party’s aim.

Highballing or lowballing

This tactic is where the other party opens with a ridiculously high or low figure that is virtually unachievable. Their reason for doing so is to make the opponent re-evaluate or doubt their own stance and change it closer to their resistance point. While there is a risk of the opponent completely halting negotiations as failed, this tactic is used very often. A good counter tactic is to not respond to it at all, but ask for a more reasonable offer. Good preparation is an important factor here, since it allows one to do this, as well as demonstrates that the tactic has failed since one knows enough about the market, communicating strength. It also enables one to respond, if needed, with an extreme counter offer that shows that one cannot be intimidated into submission to an ineffective offer.

Nibble

This involves the other party asking for a small concession on a previously not discussed issue or item, often at the closing of the agreement. This is done in a way that it's small enough to not lose the agreement, but big enough for one to feel a difference on one's own outcome. It is basically an action without the general principle of good faith. An effective way to counter this is to acknowledge it by asking the other party what other items they want and continuing on that path till all information is out in the open for negotiation (Landon 1997), or having one's own "nibbles" created earlier that can be used as a kind of trade-off.

Chicken

This includes forcing one party into a context where they are perceived as weak or "chicken". To do this, the other party may combine a bluff with a negative action to pressure one into getting what they want. For example, a company might tell workers who are on a strike that it will outsource its operations to another cheaper country if the strikes don't stop. The threat of the negative action is what causes the "chickening"; it is a serious gamble on the negotiator's part and can backfire as well since the opponents might not, in that context, "chicken out", they might call the bluff instead. One major way of countering this is to ignore or downplay the tactic. Another, riskier path is to counter with one's own "chicken" so as not to back down. However, this puts the whole negotiation in a negative space. Using third party moderators can be a better way to reframe the setting or verifying the validity of the tactic is a better option.

Bogey

This tactic comes into play when negotiators give more importance to a small issue or item and use it in trade-offs for more valuable items. This is especially used when the item is of lesser value to them than to the other party. O'Connor and Carnevale (1997) suggest that this is often done through omission, i.e., negotiators get all the information possible from the other party on their issues and then look for common value. Again, extensive preparation is crucial in countering this tactic, since having knowledge of expected issues from the other party may help one identify if they behave as though those expected items are of no importance to them.

Use of questions can also be a good counter, so as to find out if the issue is being downplayed or its value has decreased for the party and not concede too much on it.

Authority limit

This tactic is used when the party wants to buy time or delay an issue. Citing organizational policies or rules, or a third party that needs to be brought in, such as a senior or an expert, is common. The only way to counter this is to find out beforehand if the right people are going to be in on the negotiation table. If this tactic is used anyway during the session, wait it out but make it clear that one is ready to wait for a certain amount of time till the authority is in place.

Intimidation

This is the use of any tactic that can force the party using negative emotion, such as anger or fear. These emotions can be used to communicate the seriousness of a position, often quickly. Guilt can also be used to intimidate by questioning the other party's integrity or reputation. This may force the party to concede on an emotional basis instead of a logical one. Intimidation is often used when there are only one or fewer team members in the other party. Discussing the tactic openly or sometimes, ignoring it may enable one to counter intimidate. Having senior team members, or those experienced with such tactics, can also be a good counter measure.

Aggression

Similar to intimidation, aggressive behavior is often used to coerce the other party into conceding. It can include attacking, relentlessly pursuing concessions or items, asking for too many justifications, and so on. To counter this, it is sometimes crucial to halt the session and discuss the negotiation process itself, so as to clarify the manner in which it will occur; for example, one can state that aggression will not work, only interests and fair communication will.

Snow job

This tactic is where negotiators bury the other party in overwhelming amounts of information or detail, such that the latter may be unable to separate "the wheat from the chaff". This is used as a method of distraction and to demonstrate power, and is used often in legal negotiations. Another way of using this tactic is to overuse jargon in communications, causing the other team to slow themselves down in the process to understand what is being sent their way. To counter this, the negotiator must step up and use the questioning technique fearlessly to wade through the details. If the matter is technical or involves jargon, bringing in experts can also help.

Silence

This tactic is one of the most commonly used in negotiations, and can often cause derailment in the process. Since information is one of the main sources of power in negotiation, using this

tactic can create a power imbalance among the parties. An effective way to counter this is to be aware of non-verbal communication from the silent party and using those cues to respond to the situation. Using open-ended questions is also an option.

Handling tactics well and responding with countermeasures is not always easy in a negotiation. Some of the major ways to do so is to ignore the tactic, discuss it openly, respond with one's own tactics, or build a strong rapport that nullifies the use of tactics. Having strong personal and communication-related awareness, focusing on the ultimate goals and outcomes as well as showing some empathy can enable one to proceed without getting bogged down by the tactics described above.

Summary

There are two major categories under which all negotiation strategies fall. Integrative bargaining, also known as interest-based bargaining, involves negotiators looking for outcomes that bring a positive achievement of goals for all parties. It includes identifying interests, finding or creating common grounds, reaching agreements wherever possible, trading off and managing unresolved issues. There are many factors involved in this type of negotiation and each plays a critical role in different situations and times in the process. On the other end of the spectrum, distributive bargaining or fixed-pie negotiation is a strategy used in dividing and distributing a particular resource where the 'winner' is the party that gets the largest share. While it is not seen as positive as integrative processes, this approach is used very often in the negotiating world, and at times along with integrative bargaining for best results. Further, negotiation is influenced by power and the sources that it is derived from, as well as by tactics and counter tactics used by negotiators to get their way.

Discussion Case

John Stanley and Rohit Kumar, both sat in their respective chairs, filled with anticipation and nervousness. They each represented an up and coming NGO; John was with ABC and Rohit with XYZ. They had arrived almost at the same time and had briefly exchanged introductions and pleasantries. However, their interaction had not proceeded any further, given that they were both there pitching to the government for a project that only one of them would receive. ABC was John's brainchild and had been an entity for about four years now. They had grown steadily, starting out with small donor-funded projects in the area of organising events for good causes to eventually bagging government-funded projects and even partnering with international organizations like UNICEF and CHAI. XYZ was an NGO that was seven-years old and had initially exclusively worked on campaign executions, and awareness drives. They specialized in dealing with back-end data and using big data to target their campaigns. They had recently branched into event organization and were looking to establish a name for themselves in that area. Eventually, Radhika Malhotra, the Principal Secretary of the Department of Child

and Women Welfare, arrived and seated herself at the head of the huge mahogany table. John and Rohit both sat up and almost simultaneously started their introductions. Radhika chuckled and had them introduce themselves and the NGOs they represented in turn.

Soon after the cursory introductions, niceties and tea, Radhika got down to business. Their department was planning on conducting a two-day event for the children of Lucknow on Children's day, which was forty-five days away. The program would include performances, awareness drives, display of talent by children from various orphanages etc. The primary objective was to spread awareness with respect to child labor, adoption and the importance of nutrition in children, while also giving the children a two-day event they could enjoy. She wanted one of the two NGOs to handle the event organization and execution. However, they would have to work on a tight budget and schedule. John and Rohit both recognized this as a great opportunity to propel their respective NGOs into relevance and were ready to fight tooth and nail to get the job. Radhika motioned for John to go ahead first and make his pitch, while Rohit waited outside.

John made the pitch, assuring Radhika that his NGO had all the right capabilities and would be able to pull off the event. He showed her briefs of previous events they had conducted and organizations they had partnered with as proof of their capabilities. John also came across as a very amicable person. His confidence and demeanor impressed Radhika and she was fairly sure that she'd go ahead with his NGO, ABC. It was now Rohit's turn to pitch, while John waited outside. Rohit talked about the analytical powerhouse that his NGO was. He showed her the various events and programs they had executed with the help of big data. While he wasn't a very great talker and didn't come across as particularly cheerful, Radhika noted that Rohit was analytically gifted and he spoke statistics with more ease than he did English. His NGO had pulled off seemingly impossible campaigns and awareness drives on little to no budget.

After both the pitches were done, Radhika decided to break for lunch and asked the two to meet her at her office in a half hour. She was in a dilemma about which NGO to go ahead with. While John was certainly a great organizer and enjoyed working with people, Rohit had capabilities that would be crucial to the initial days leading to the program and to ensure that their awareness drives (which was one of the primary objectives) were successful. Meanwhile, John had asked Rohit to lunch and Rohit had reluctantly agreed. John decided that he'd talk to Rohit about the possibility of their NGOs partnering for this project. However, Rohit did not seem very keen on the idea.

Points to Ponder on

- Can you identify what type of interests each of the three parties involved in the negotiation have? How best can their interests be served?
- As John, what type of bargain would be the best case scenario for his cause? Similarly, what about Rohit and Radhika?
- What would the areas of mutual benefit be and can they be clearly classified into the three issues discussed in the chapter?

- As Rohit, you'd want to get the entire project as XYZ is looking to establish a name for themselves in the new field of event organization. However, ABC has much better capabilities in that area and is likely to win out. What would you do to best serve your interest while also ensuring that you get the project? (Can Rohit strike a deal with John, where they share the load, with XYZ taking care of the analytics, campaign drives etc., and ABC taking care of the event organization, in exchange for some contacts and references to organizations that ABC had previously worked for?)
- As John, you know that given the time and budget constraints, you'd find it hard pressed to do the campaign drives and lacked the analytical background in order to complete that task on time. What is the best case scenario for ABC in that case?

Activity

The activity requires two people.

One will be a student who is looking for a part time job, while another will be a person who wants to hire the student for an acting task.

Trainer's Material

The trainer may divide the class into pairs of two, with one in each pair acting as a student and another as the one who wants to hire the student.

Notes for Student

You are a student of liberal sciences and have been nurturing the dream of becoming an actor. However, you have never got an opportunity to act in your life so far and hence you are willing to join a professional acting class in your vacation. The classes will be held for four weeks on Saturdays and Sundays. The fee of the professional acting class is about ₹ 2,000 per week and you wish to attend all four weeks. However, you do not have the money for the same and hence you have opted to take up a job, which pays ₹ 10,000 for working on weekdays, for four weeks. You have to work for the whole month, you cannot work for a week. You are ready to take up this job as you will be able to pay for your professional acting class, but you are also sad that you will lose your whole vacation.

A local drama group representative suddenly approaches you. He is willing to offer you a small but important role in their drama. The drama will be screened at the end of the first week on Sunday. You do know that the actor who was to perform the part has left and the drama group in dire need for an artist.

You are tempted to take this offer but have the following things on mind:

1. You will get to act on stage, even if it is for a small role.
2. You will have to leave the vacation job that you are offered, as you will be occupied with drama practice during the first week. However, you will be paid for this role in

drama. From some sources you got to know that the previous actor was paid Rupees 2,000 for a week. However, since this is a last minute deal and the drama group representative have less options, you may be able to get more.

3. The drama group can hire a professional actor but may cost them around Rupees 10,000 (you got to know from somewhere).

Notes for Drama Group Representative

Your one actor has left suddenly and you have a drama scheduled in a week's time. You were paying that actor ₹ 8,000 per month. However, currently you are interested in hiring an actor till next Sunday. You do know that such ad hoc hiring may cost you a little more, say around ₹ 2,500–3,000. You have found a student who is willing to act. However, she may have to be paid. You want to crack a deal, as you need someone to play a part in this. Another option is to hire a professional actor but that will cost you ₹ 6,500 per week. A professional actor would be a better performer but it would be a costly affair and since the part is small, you want to hire the student. However, you may not be willing to pay too much.

Exercises

1. Multiple Choice Questions

- i. Integrative bargaining involves:
 - a. winning at any cost
 - b. the short term perspective
 - c. resistance to bargaining
 - d. the long term perspective
- ii. Labor-management negotiations over wages exemplifies:
 - a. integrative bargaining
 - b. cost effective bargaining
 - c. distributive bargaining
 - d. third party bargaining
- iii. Sherry's—claim to fame is that, in any negotiation process that she is involved with, she has the ability to work towards a solution that can create a win-win situation for all participants. Sherry is thus adept at:
 - a. integrative bargaining
 - b. collective bargaining
 - c. distributive bargaining
 - d. holistic bargaining

- iv. Resources are more useful as instruments of power to the extent they are highly valued by participants in the negotiation. Which of the following is not a resource of organizational context?
 - a. Money, in its various forms
 - b. Supplies, in form of materials, components, parts
 - c. Human capital in available labor supply, staff, temporary help
 - d. Critical services, in repairs, upkeep, technical support
 - e. Stress, in imposing deadlines, increasing workloads
- v. Which of the following is not a major source of power from one of the four different groupings?
 - a. Informational sources of power
 - b. Personal sources of power
 - c. Organizational sources of power
 - d. Relationship-based sources of power
- vi. Highballing or lowballing, where you open with a ridiculously high or low figure that is virtually unachievable works the best when
 - a. when you are under time pressure
 - b. when you have more information as compared to the other party
 - c. when the other party has more information as compared to you
 - d. when the stakes are low

2. True or False

- i. The effectiveness of formal authority is derived from the willingness of followers to acknowledge the legitimacy of the organizational structure and the system of rules and regulations that empowers its leaders.
- ii. Bogey is where negotiators bury the other party in overwhelming amounts of information or detail.
- iii. The process of integrative bargaining consists of the interplay between one's BATNA and that of the other party
- iv. The point beyond which the party will refuse to budge is their *resistance point*, whether it's the highest amount they are ready to pay (buyer) or the least amount they are willing to accept (seller)
- v. In integrative bargaining, the focus is more on interests rather than positions
- vi. Reciprocity norm refers to the human tendency to respond to other's actions with equal or similar ones

3. Match the following

i.

a. Process interest	1. Relates to the tangible issues in a negotiation
b. Relationship interest	2. Relates to the values in a negotiation
c. Substantive interest	3. Relates to the manners in a negotiation

ANSWER KEY

- | | | | | | |
|----|-----------------|-----------|------------|----------|---------|
| 1. | i. d | ii. c | iii. a | iv. e | |
| | v. b | vi. b | | | |
| 2. | i. true | ii. false | iii. false | iv. true | v. true |
| | vi. true | | | | |
| 3. | i. a-3 b-2, c-1 | | | | |

Exhibit 6.1**Negotiation Tactics****Auction**

- ☐ This is normally used when multiple parties want the same thing.
- ☐ This can be put to use by making them understand that only one of them will get it.
- ☐ This can be used both in the case of sellers and buyers.
- ☐ In a normal auction, bidders increase their offering prices until nobody else makes a better offer, and the item in question goes to the highest bidder.
- ☐ This works best when you have people with a high regard for intangible goals, especially winning at any cost or winning versus another individual or organization.

Biased Choice

- ☐ This is normally used when the other party is not sure about what it wants or is looking at something that may be difficult for you to give.
- ☐ This can be put to use by offering a set of choices to the other person in such a way that the choices are biased towards those things that you want and away from the things that you do not want.
- ☐ Ways of doing this:
 - ◆ Totally ignore, remove and/or do not mention the things that you do not want.
 - ◆ Offer the other party a set of options such that any choice it makes will be acceptable to you.
 - ◆ Compliment the choices that you are offering them while playing down the other ones if they pop up in the conversation.
- ☐ This works best when you first understand the biases and preferences of the other party and then pander to them.

Better Offer

- ☐ This is normally used when you have a better offer or are assured of a better offer from somebody or someplace else.
- ☐ This can be put to use either as a threat in case of distributive negotiations or as an issue that needs to be addressed in case of integrative negotiations.

- ❑ A better offer from elsewhere is also a walk-away alternative that can be deployed during a negotiation since it serves as an indicator to your resistance/reservation point.
- ❑ This works best when the substantive issues are more important to you than the relational issues, and you do have a reasonable assurance about alternatives, which are as good if not better than the one on the table.

Bad Publicity

- ❑ This is normally used when the other party is being unreasonable or playing hardball with you.
- ❑ This can be put to use by pointing out how their actions are likely to attract criticism from a wide range of people and parties, that it is likely to be detrimental for them.
- ❑ This works best if you are reasonably sure that the other party seeks approbation from others and/or is very sensitive to what others would say.

Big Fish

- ❑ This is normally used in high-stake negotiations, where impressions matter and the situations are competitive.
- ❑ This can be put to use by playing yourself out as a big fish, which has the capability (say deep pockets or network) to swallow everyone else.
- ❑ This needs a lot of symbolic gestures like waving money, show of material wealth, name dropping etc.
- ❑ You need to play the psychological game here, making the other person feel inferior or inadequate.
- ❑ This works best when the other party looks uncomfortable in a distributive situation and the stakes are high.

Breaking It Off

- ❑ This is normally used when the other party is being a bully or pushing you beyond reason.
- ❑ This can be put to use by threatening to break off the negotiation and/or relationship and walking out.
- ❑ This needs to be followed up with actual walking off or pretending to walk out (for instance by folding the papers and putting them back in your bag, buttoning up your suit etc.) or other such symbolic gestures.
- ❑ This works best when you have some good alternatives as well as in situations and markets where high ball/low ball is a frequently used strategy.

Brooklyn Optician

- ❑ This is normally used when you believe you can get a little more from the other party if you are patient.

- ❑ This can be put to use by breaking issues into smaller packages and then negotiating them sequentially while pricing these packages individually.
- ❑ The tactic derives its name from the stereotype of an optician who sells you a pair of glasses, one lens at a time, and frame separately.
- ❑ This works best when the issue at hand can indeed be divided into sub-parts, which have a differential value. So, once an agreement is reached on the most substantive issue, the other issues with reduced value can be added one by one before closing the deal.

Change the Negotiator

- ❑ This is normally used when you believe that the agency cost of the current negotiator is too high or the negotiator has promised more than what your side can afford.
- ❑ This can be put to use by changing the person who is negotiating on your behalf, and specifying that some (or all) of the issues might need to be renegotiated.
- ❑ The new negotiator can then revisit all the decisions, issues and agreements with a new assessment template and renegotiate those that are not acceptable to your side.
- ❑ This can also be used to reset the entire negotiation process or rebuild a relationship that may have gone sour under the previous negotiator.
- ❑ This works best when there is an immediate need to redo or reset the negotiations, and you are reasonably sure that the new person on the job would have a lower agency cost in so far as his/her goals are better aligned with the organizational goals.

Delays

- ❑ This is normally used when you need time to go over your preparation for the negotiation, or during critical moments in negotiation where you need more time to think.
- ❑ This can be put to use by asking for more information, even if it is unrelated, asking for breaks, or seeking reappointment, citing unforeseen circumstances.
- ❑ Especially, if you are feeling rushed by the other party, take a break or defer the decision-making process till you are reasonably sure of your preparation and analyses.
- ❑ In a distributive negotiation, if the other person has time constraints, you can delay things right up to the last minute to make them work to your advantage.
- ❑ This works best when you need more time, you can handle uncertainties better than the other party, or if the other party has time constraints and you wish to capitalize on them.

Divide and Conquer

- ❑ This is normally used in distributive negotiations when you believe that the other party has conflict of opinions or is morally not so sound.
- ❑ This can be put to use by sowing discordant seeds in their arguments, dividing them by paying more attention or giving more respect to a particular individual or group, and confusing them with offers that are likely to appeal to the people in that group differently.

- ❑ Focus on the key people and not necessarily the key negotiator and try and understand their needs, tacit or otherwise.
- ❑ This works best when you have the power of commitment in your team and are on a morally high ground, while the other party is divided, is speaking in multiple voices and doesn't have unquestioned leadership.

Fair Criteria

- ❑ This is normally used in integrative negotiations when both parties want to act with fairness or certain distributive negotiations when you want to question their unreasonable demands.
- ❑ This can be put to use by insisting on finding and selecting criteria that the other party can accept as being fair, suggesting yourself a few criteria or yardsticks for decision making that can be argued as fair, and/or seeking the advice or intervention of a third party who is acceptable to all parties in the negotiation.

If this doesn't work, you can also use mediation by a third party or an expert. This helps in building trust as well.

- ❑ This works best when both parties want a fair resolution or when one of the parties is being demonstrably unfair.

Good Guy–Bad Guy/Good Cop–Bad Cop

- ❑ This is normally used in distributive negotiations when the other party is acting tough on issues that are important to you.
- ❑ This can be put to use by using two people, where one person acts in an aggressive manner making unreasonable demands, demanding compliance, while the other person acts in an understanding and friendly way, asking nicely and requesting for compliance.
- ❑ This can be done even if you are alone by alternating between being rude and nice, though it requires very well honed negotiation skills to pull it off.
- ❑ This works well when the other party is emotional, immature or easily impressionable, while the issue at hand is a serious one and substantively important to you.

Highball–Lowball

- ❑ This is normally used in distributive negotiations when the parties are trying to set the anchor in high-stake negotiations or information-asymmetric negotiations.
- ❑ This can be put to use by determining what constitutes a reasonable range of prices and other related information through meticulous research, and then making the first offer in order to anchor the negotiation around that point. This can also be used as a counter strategy to a similar tactic.
- ❑ Starting very high or very low creates an anchor for the other party, especially if it does not have information as much as you do.

- ❑ This works best when you are better informed compared to the other party; if the other party is in a greater need for the issue at hand; and as a counter strategy if the other party is trying to do this to you.

New Issue

- ❑ This is normally used when things are not going in your favor in a negotiation and your delaying tactics are not working, as they ought to.
- ❑ This can be put to use by talking about a completely new issue, which was hitherto absent from the table, though later you may be willing to drop it after having exacted something from the currently tabled issues.
- ❑ This is particularly useful when the other side is struggling to handle the complexities of the negotiation, and thus bringing in a new issue at this juncture adds pressure on them.
- ❑ This works best in the midst of a complex negotiation when you want to extract more out of the negotiation or are looking for more time. This also helps you stem the tide of the other party if they are steamrolling all over you.

Quivering Quill

- ❑ This is normally used when the other party is emotionally committed to this deal but you believe there is more value to be had out of it.
- ❑ This can be put to use by waiting until you are just about to close the deal and then pause, think (with the pen in hand, it literally becomes the 'quivering quill'), and then ask for one more concession.
- ❑ If the deal is important to the other party, it is likely that close to the settlement they will be emotionally spent and invested into the deal. Several concessions, including some important ones, can be claimed at this juncture.
- ❑ This works best when the other party is emotionally more invested into this negotiation compared to you, and has more to lose from a no-deal.

Take It or Leave It

- ❑ This is normally used when you have a good walkaway option or if the other party is being unreasonable and/or trying to delay things.
- ❑ This can be put to use by making a final offer to the other party and saying, 'take it or leave it'. The assertion with which you say it will determine the success of this tactic because the other party may want to call your bluff if you do not sound convincing.
- ❑ This works best when you are reasonably sure about and have a good walkaway option, and you realize that the time spent on this negotiation may be better spent on some other deal.

Exhibit 6.2

Counter Tactics

Time Pressure

- ☐ Minor gifts
- ☐ Reminder on relationship damage
- ☐ Ego massage
- ☐ Appeal to higher authority

High Opening Demands

- ☐ Get emotional
- ☐ Phone calls: fake or otherwise
- ☐ Stall
- ☐ Put time pressure

Information Barrages and Voids

- ☐ Deny relevance and application
- ☐ Refer it to your experts
- ☐ Ignore it by diversion

Changes in the Package

- ☐ Reconsider your package
- ☐ Stall
- ☐ Suggest more changes

Authority Levels Issue

- ☐ Threaten with a higher management meet
- ☐ Patience
- ☐ Ego massage

Ego Attacks and Messages

- ☐ Detachment
- ☐ Diversions, Traps, and other Irrelevancies
- ☐ Set yourself a high objective
- ☐ Concede slowly and diplomatically
- ☐ Probe for enough information

Team Manipulation

- ☐ Do the same

Tough Guys Need to be Tested

- ☐ Patience
- ☐ Ego boosters and massages
- ☐ Counter for some extras
- ☐ Call the bluff



Resolving Impasse in Negotiations

Learning Objectives

After studying this chapter, you will be able to

- Assess the possible barriers in a negotiation
- Explain the causes and sources of these barriers
- Implement strategies to resolve an impasse in negotiations
- Apply various methods of alternative dispute resolution

BARRIERS AND IMPASSESSES

A good example here comes from the well-known lawyer drama *Suits*. When senior partner Harvey Specter meets Mike Ross and finds him perfect for the role of his associate, he hires him in spite of the non-negotiable policy of his company (then Pearson Hardman); the law firm hires only Harvard graduates. Ross is not a Harvard student; he is not even a lawyer. He does have eidetic memory though, which makes him a formidable resource when it comes to something as detail-oriented as law practice.

His recruitment, in spite of this barrier, causes a number of reactions and effects in the firm over time, and is used as leverage in various ways. For instance, when the Managing Partner, Jessica Pearson, finds out about it but does not let on that she has. She later uses the information for her own benefit in different ways when needed. One of these is when she asks Ross' co-worker and girlfriend Rachel Zane to sign a document stating her knowledge of his fraud. In turn, Zane negotiates with Pearson saying she will sign it only if she is hired back into the firm after she completes her law degree at Stanford. Thus, the "Harvard graduates only" policy, a barrier by certain criteria, also turns out to become a factor used in negotiations inside the firm.

When another senior partner, Louis Litt finds out about it, he uses it as leverage to become a “name partner” at the firm by threatening to expose the lie if this is not done. Over time, many clients and opponents in cases come close to find out about Ross’ fraud, which causes those who know about it in the firm to bend and manipulate processes or behaviors to ensure that this does not happen, for the sake of Ross as well as the existence of the firm itself. While his team supports him since he turns out to be superlative at his work, he is also arrested for conspiracy by the (till date) end of the series and is dragged to a trial.

7.1 BARRIERS IN NEGOTIATION

An impasse is the breakdown of negotiation; a state of conflict which has no simple resolution. It takes place when negotiating parties cannot or will not progress to an agreement, and a deadlock occurs. Negotiations can break down because of many reasons, especially distributive ones. While impasses are mostly negative in nature, they can help in certain settings. They can be *tactical* rather than genuine in nature, where parties deliberately get into deadlock mode as a tactic to add pressure, gain leverage or change their stance. Further, whether an impasse is genuine or tactical can be a perceptual difference that is considered real and used to forward one party’s gains. All in all, impasses are a block in negotiation settings that need to be resolved one way or another.

7.2 CAUSES AND SOURCES OF IMPASSES

A negotiation can have an impasse occurring when it becomes more and more difficult to resolve conflict: where it becomes intractable. According to Putnam and Wondolleck (2003), intractable conflicts can be based on any of these factors: *divisiveness* (degree to which the conflict divides parties); *pervasiveness* (degree to which the conflict pervades people’s social or private lives); *intensity* (level of involvement, emotionality and commitment from parties to a conflict); and *complexity* (number and complexity of issues, number of parties involved, levels of social systems involved in the conflict).

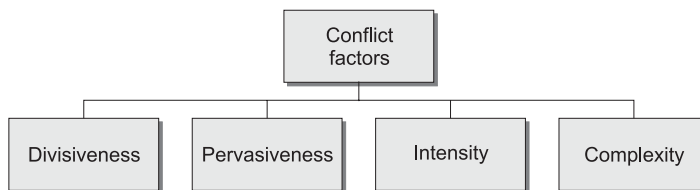


Figure 7.1 Factors of conflict

Divisiveness of a conflict refers to the degree to which the conflict divides parties

Pervasiveness of a conflict refers to the degree to which the conflict pervades people’s social or private lives

Intensity of a conflict refers to the level of involvement, emotionality and commitment from parties to a conflict

Complexity of a conflict refers to the number and complexity of issues, number of parties involved, and levels of social systems involved in the conflict

There are five main characteristics of a negotiation that can cause an impasse.

1. Party Characteristics

Just like negotiation settings and conflicts, each party varies in its characteristics. Some of these can be enablers to a negotiation while others may contribute to a conflict or an impasse, depending on different situations. *Identity* is one of these characteristics; how one defines oneself is a crucial factor to any negotiation. According to Rothman (1997), conflict occurs when identities are threatened, which challenges the fundamental sense of self. Other research suggests that psychological processes involved in a group identity are among the strongest causes of an impasse. *Comparing oneself to others* is another characteristic, since one's social identity is invariably linked to one's perceptions and frames of reference regarding groups to which one belongs or doesn't belong. How parties *perceive power* is another characteristic. In a research conducted by Smyth (1994), he found that successful negotiations depend on prior resolutions of social identity issues among the parties. *Conflict management style* is another important party characteristic that plays a crucial role in an impasse and its resolution.

2. Nature of the Issues

There are three issues that are known to be majorly cause an impasse. These are *value differences*, where parties have different ideologies, preferences, lifestyles, and understanding of what is critical to them. Many impasses related to politics, religion, law and environment are related to core value differences that parties do not want to move from. Secondly, *high stakes distributive bargaining* on issues can cause an impasse. When there is no overlap in the bargaining range or zone of potential agreement (ZOPA), an impasse can be seen as a good way to get what the party wants. This is where many bargaining tactics are also used, often successfully. Lastly, *risk to human health and safety* is an issue that can cause very evident and long-drawn impasses, for obvious reasons. Negotiations related to environment, arms, nuclear energy, waste disposal, rehabilitation and pollution are all examples in this area.

3. Environment Characteristics

The environment can differ greatly even for parties involved in one negotiation. Understanding this fact is important to conflict resolution. While one party may want long-term partnership, the other may only care about the present contract. Further, in renegotiation, an impasse can occur due to change of environment for one or more parties.

For instance, in some countries, such as Spain, business negotiators' primary goal may be to achieve a signed contract, whereas negotiators in other cultures, including India, may be more focused on establishing an effective long-term relationship.

4. Setting Characteristics

The negotiation setting's characteristics, whether temporal, relational or cultural, can cause impasses in many ways. The physical location, for example, and changing it midway can be an important tactic used by a party that can cause a breakdown or a resolution. Changing party

members based on the issue at hand is another instance; bringing on an aggressive member to be involved in bargaining can communicate a tough stance to the other party.

5. Nature of Conflict Resolution

If the processes that are involved in conflict resolution are themselves ineffective, an impasse is likely to occur. Negative processes are very likely to be a cause: an atmosphere of anger, frustration or mistrust towards the other party; closed or limited channels of communication; added issues to the conflict; perceived differences in position, and so on. Excessive cohesion within the negotiation, where parties completely shut down negative or critical communication and are formal or civil in all their communication, can also cause an impasse since difficult issues may not be brought to the table at all.

During negotiation, there are various *mistakes* a negotiator can make that can cause or exacerbate the likelihood of an impasse. These include neglecting the other side's issues, focusing too much on one factor like price, aggressively focusing on positions instead of interests, focusing only on common issues and not on differences that need creative resolution, neglecting one's BATNA (which can decrease one's power in the negotiation), and not adjusting one's perceptions as the negotiation moves forward. Further, not proactively managing the negotiation process itself is a mistake that can lead to conflict or an impasse.

Cloke and Goldsmith (2000) have suggested that looking at resistance from people as unmet needs instead of as unreasonableness or difficult behavior can help in impasse situations. Some of the sources for impasse then include:

- Lack of trust in the other party
- Revenge for past actions
- Unsatisfied or unaddressed needs and interests
- Unrealistic expectations
- Lack of negotiation or communication skills
- Undue influence from others – party members, colleagues, etc.
- Incompatible values for evaluating evidence and options
- Focusing on distributive processes alone
- Faulty perceptions about the issues, the party and the path to resolution

Pruitt, Parker, and Mikolic (1997) have suggested that the movement to impasse in a negotiation occurs in predictable ways. Parties begin with requests, then move to demands, complaints, angry statements, threats, and finally, under severe conditions, abuse or harassment. Each of these stages is used up fully before parties move on to the next one, in case they have not still achieved their goal. Preventing an impasse thus involves recognition of the use of these tactics and halting them before the process become overly negative or irreversible.

7.3 OVERCOMING BARRIERS

Human behavior in general involves pushing back on non-cooperative parties or reacting with negativity in situations of conflict. However, in a negotiation setting, the first principle of overcoming barriers is to *not* react or strike back. It is important to understand the problem from the other party's perspective to be able to move towards resolution. *Active listening* can enable negotiators to do this, while *positive framing* in communication can influence others' willingness to take risks or make concessions. When the parties are coming from a position of deep emotion, they may fixate on a goal, which can turn into a barrier. Creating *bridges* in such scenarios can help reduce psychological anchoring and enable people to be more open-minded about possibilities. Conciliatory gestures, such as explaining why a concession is being given before giving it can be effective, as they are usually perceived as an act of goodwill.

According to Mayer (2000), impasses need to be resolved on three main levels.

- *Cognitive* impasses occur when parties cannot change their perception of the conflict or each other. Here, resolution consists of changing how parties perceive the situation, such that they see the conflict as a part of the past instead of the future. Redefining the problem or clarifying the issue with greater acuity can be beneficial. This kind of resolution is not easy to achieve since people tend to cling to original perceptions in spite of new, contrary data being showcased and shared. Explicit reframing is crucial in this process.
- *Emotional* resolution involves changing how parties feel about conflict and impasses, and removing emotional negativity or intensity from the setting. These emotions can reduce the negotiator's willingness to resolve conflict or be open about issues. Here, the process often involves forgiving, apology and rebuilding, so as to get emotional closure on the conflict. This can ultimately help the parties move forward.

Cognitive impasses occur when parties cannot change their perception of the conflict or each other

Emotional resolution involves changing how parties feel about conflict and impasses, and removing emotional negativity or intensity from the setting

In sum, in a collectivist culture like Japan's, an apology can be an effective means of alleviating conflict regardless of whether you are to blame. By contrast, when you apologize in an individualistic culture like that of the United States, you must balance the legal and reputational risks. Thus, be sure to frame and deliver apologies carefully in negotiations.

- *Behavioral* resolution involves agreements around how each party will behave in the future and how settlements will be upheld. In a behavioral impasse, parties may not be able to agree on courses of action, processes and so on. Focusing on common preferences or interests and adding alternatives to the agreement can be effective in this case.

Behavioral resolution involves agreements around how each party will behave in the future and how settlements will be upheld

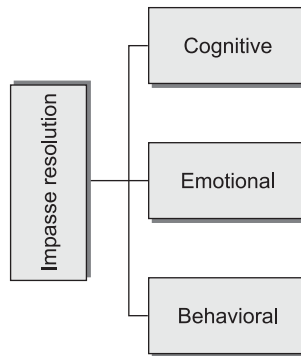


Figure 7.2 Levels of impasse resolution

7.4 OVERCOMING IMPASSESSES

There are six major strategies that can be used to resolve an impasse. They are most effective when used in the order given below.

1. Agreement on Rules and Procedures

Often, managing an impasse can be a matter of coming up with important ground rules and processes to be followed in case of conflict and otherwise in a negotiation setting. An impasse occurs when a conflict exceeds or breaks these boundaries. In these cases, relooking at the ground rules as well as re-establishing some of them while also coming up with some new procedures may be effective in bringing resolution. Certain ground rules include setting a formal agenda, deciding on a venue of negotiation, setting time limits for various sessions and sub-sessions in the negotiation, determining who may attend the negotiation, setting procedural rules, especially in terms of communication, information sharing and meeting records, and so on.

Further, parties may decide to set some time aside in the session to take a step back and check how the process is going. This can involve figuring out what is working, what techniques are not effective and need to be eliminated or changed, whether the negotiators themselves need a break to introduce new ones, and so on. This proactive process can help prevent impasses as well as resolve one that may have occurred.

2. Reducing Tension and Synchronizing De-escalation

Prolonged impasses can cause tension and conflict in even the most professional scenarios. Each party sticks to its own positions and views the other as stubborn, unreasonable or inflexible. Once the negotiation goes into negative territory or becomes personal, it gets

increasingly difficult to have a productive session. To resolve these kinds of conflicts, there are some ways:

Separating the parties

Calling a recess is an effective way of immediately halting escalation. Acknowledging that this is being done to reduce negativity and to let the parties cool down, as well as using the break to renew one's ultimate goals and be more productive can be beneficial here. The period of recess depends on the negotiation, the parties and the issues at hand; it can vary from a few minutes to several days.

Managing tension

Tension occurs in all negotiations to different degrees. Being aware of it in oneself, one's party and the other party is a good way of managing varying levels of tension. Using humor, allowing for venting without negative reactions, and other similar techniques can enable one to deal with the situation.

Active listening

There is a difference between agreeing with everything the other party says and accurately understanding their position and goals. Having a good understanding of one's own reactions is a good way to enable active listening, such that there are fewer challenging or confrontational reactions from one's end and more positive responses that allow for confirmation and elaboration. They allow the other party to feel heard and understood without mistaking it for overall agreement.

Synchronizing de-escalation

This involves one party deciding on a small concession that both parties can agree to, as a gesture of good faith and a desire to de-escalate. It should be large enough to signal a concrete desire to do so but small enough to not weaken the position of any party. The party must clearly state what the concession is, the aim of making it (de-escalation), then invite the other party to reciprocate it, clarify when it will take place, and communicate that it will happen even if the other party does not reciprocate. If the last stage occurs, then the first party must select a smaller, lower risk concession and proceed with that. If the other party reciprocates positively, then the next level of action—a riskier one—can be taken. This process continues as the synchronized de-escalation till both parties get back to a productive level in the negotiation relationship.

3. Enhancing Communication

In a negotiation setting, it is crucial that all the parties understand the other's position. Impasses often occur when communication is lost; neither party listens to the other and is more concerned with forwarding their own viewpoints without realizing that there might be common ground that they can focus on. One way to overcome this is through *role reversal*. As

the name suggests, this technique is about placing oneself in the other party's shoes to get a clearer picture of their perspective in the current as well as the futuristic context. It can also help one uncover previously unnoticed commonalities in the other parties' agendas or interests that can help resolve the impasse. Another technique is *imaging*, which is used to gain insight into the other party's perspective. Specific questions are asked to get a better idea about the other party, which are then used to alter one's perceptions and create a successful integrative environment for negotiating.

4. Controlling Issues

In any negotiation, the higher the number of issues and their level of complexity, the more there is a likelihood of an impasse occurring. While smaller conflicts with fewer or simpler issues can be resolved easily, large, complicated conflicts with many interconnected issues are often unmanageable. A strategy called *fractionating* was propounded by Fisher (1964), which consists of dividing a conflict into several smaller parts that are easier to manage or resolve. Fractionation includes a number of tasks such as reducing the number of parties on each side, controlling the number of issues, using concrete terms to state issues, depersonalizing issues and so on.

5. Establishing Commonality

In an impasse, parties tend to view their commonalities negatively; i.e., they focus more on perceived differences and believe that they have less in common than they actually might. In order to change this scenario, parties need to consciously focus on common goals and interests. This can include establishing *superordinate goals*, which are common goals that both parties want in equal measure. To ensure that these goals are beneficial to both parties, objective third parties are often the ones who establish them. Further, having *common enemies* is a negative type of superordinate goal that can bring parties back on common ground and resolve their own differences to defeat the enemy. Political parties often use this technique.

Having *common expectations* or ground rules established from the beginning, and managing time constraints or deadlines are other ways to ensure that some common ground remains for parties to tread on during an impasse. When time is a crucial factor, unresolved issues may surface unknowingly under pressure to establish an agreement within the deadline. Clear issue identification, being generous in establishing timelines, recognizing tentative deadlines, and extending deadlines when necessary for positive agreement can be of aid in this area.

6. Enhancing Desirability of Options to other Party

When an impasse occurs, parties may try very hard to stick to their original positions, while perceptions of all involved may be changing over and again. Remaining consistent can be an issue here, especially in complex, long-drawn negotiation settings, increasing the likelihood of an impasse.

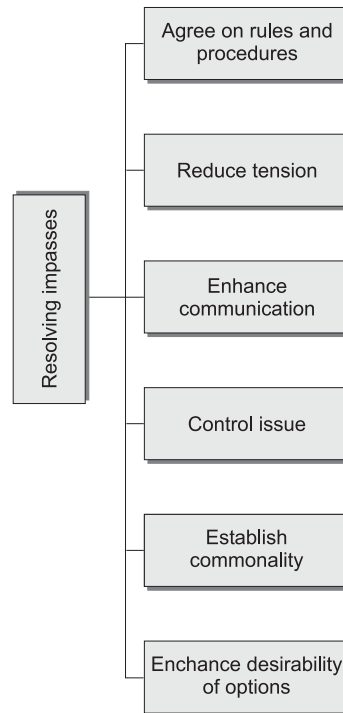


Figure 7.3 Resolving impasses

Fisher (1969) suggests three components of most influence situations: demand (what one wants), offers (consequences of meeting demand), and threats (consequences of not meeting demand). When only the demand and threat are focused upon, it can lead to a conflict. Fisher suggests that instead, focusing on the other party's interests and questioning how those can be met can help overcome the impasse. Once these are understood, efforts need to be made in achieving the other party's goals by making more offers than demands or threats. There are various strategies to do this, including giving the other party an acceptable proposal; asking for a different decision and making necessary demands more specific; sweetening the offer rather than intensifying the threat so as to remain firmly on positive ground; and using legitimacy or objective criteria to evaluate solutions.

7.5 ALTERNATIVE DISPUTE RESOLUTION (ADR)

At times, in an impasse situation, parties with a true desire to reach a settlement may call in a *third party* to intervene. This kind of assistance is known as alternative dispute resolution. ADR is described as the use of various methods by neutral third parties to assist conflicting parties reach a settlement without resorting to legal disputes.

ADR is described as the use of various methods by neutral third parties to assist conflicting parties reach a settlement without resorting to legal disputes

7.5.1 Mediation

One of the most utilized forms of ADR, mediation is the process of dispute resolution in which parties involved in conflict or disagreement involve a third party to facilitate a settlement. There are three critical elements of mediation: it is a *private* process, the mediator is always an *objective third party*, and the mediator works with the aim of *facilitating* resolution rather than proposing solutions or using authority or coercion to create resolution.

Mediation is the process of dispute resolution in which parties involved in conflict or disagreement involve a third party to facilitate a settlement

Mediation can be collaborative, evaluative, or directive in nature (Brand, *How ADR works*). According to Ross and Stillingner (1991), mediators have many functions. They add reason to the dispute and help parties redefine or reframe their perception. They speak to parties separately to understand possible areas of compromise. They also create explicit or implicit deadlines to ensure that negotiation occurs as effectively as possible. The main elements in this process are the confidence and trust placed in the mediator by the parties in conflict. The key steps in the process (Sack, 2000) are given below:

- *Request*: The involved parties request the services of an agency and jointly agree to one of these as the mediator.
- *Initial conference*: All those involved meet, and the roles and rights of each party and the mediator are defined.
- *Schedule of sessions*: These can be private, with the mediator meeting each party separately, as well as joint ones.
- *Retainer*: An agreement is made on the fees and all parties sign it.
- *Information gathering*: Each party submits information related to the dispute along with their positions and goals.
- *Facilitation*: The mediator identifies areas of agreement, defines issues, and assists the parties in reaching agreement on these.
- *Proposal of settlement*: The mediator sums up the proposed settlement developed by the parties and drafts a confirmation document.
- *Agreement*: The agreement is confirmed by both parties, signed on and submitted for legal sign-off.

There are many advantages of mediation. Some of the main ones include its *psychological benefits*, wherein it allows parties to avoid the trauma and uncertainty of the conflict or legal recourse. Selecting a mediator jointly also allows for more faith to be placed in the final resolution. There is more *focus on issues* and ultimate conciliation, such that all parties can realistically evaluate their needs and interests. Mediation also means more *control* remaining with the parties in deciding and establishing agreement, unlike in other methods of dispute resolution. This can eventually lead to the parties being happier with the solutions and sticking to their side of the terms. Compared to arbitration or litigation, mediation also is more *cost effective* and ensures *confidentiality* of the parties or the dispute. There is no requirement for them to be in public for the resolution, or have any public records of the same.

7.5.2 Arbitration

Arbitration is a formal, partly judicial and a distributive process that involves a third party deciding on the outcome of the parties' dispute. It is less time-consuming and formal than litigation, but more so than mediation. It's often used after mediation and when other attempts at dispute resolution have not been effective in providing a settlement. It is the best alternative (Cooley and Lubert, 1997) when parties are deadlocked, legal issues take significance over factual issues, when parties do not need to maintain relations beyond the settlement, when they have a history of conflict or bad faith, and when a third party is needed so as to provide immediate aid to one or more parties in the conflict.

Arbitration is a formal, partly judicial and a distributive process that involves a third party deciding on the outcome of the parties' dispute

Thus, there are three critical elements to arbitration: it requires parties to sign a *contract* stating that they will settle the matter through arbitration, the arbitrator is a *neutral third party* who has no conflict of interest with the sides involved, and this arbitrator provides a solution or decision that is *final and binding* on the disputing parties.

The key steps in an arbitration process are given below (Elkouri and Elkouri, 2003).

- *Preliminary hearing*: Procedural matters are resolved here and each party gives information on their side and nature of the dispute.
- *Opening statements*: These summarize the issues in question, the desired outcomes, the position of the parties, and the relevance of other information presented. The statement can be oral or in writing.
- *Rules of evidence*: These are decided by the arbitrator, and include any information they believe is of significance in resolving the dispute. Arbitrators may also decide on the level of freedom with which parties can present evidence.
- *Witnesses*: They are bases to provide further evidence for the party they speak for. Unlike legal procedures, they have more autonomy to speak on the relevant matters.
- *Summary*: Both parties are allowed to make closing statements and provide post-session briefs. These usually are made such that they re-emphasize the party's point of view and explain why it is more logical or reasonable than the others party's stance.
- *Arbitrator award and opinion*: The *award* here specifies the ultimate decision made by the arbitrator and the task details, such as compensation. The *opinion* is the reason given by the arbitrator for the decision made, which can help in the parties' acceptance of the award.

Currently, a hybrid form of ADR is also used; one that is a combination of mediation and arbitration (*med-arb*). Here, the mediator and arbitrator is the same third-party decided upon by the conflicting sides. Mediation takes place before the arbitration process comes in. This method is used so as to utilize the advantages of both kinds of ADR. Further, since the third party is the same and the two processes are happening around the same time, it can be more time and cost-effective for the disputants. If the *arb-med* method is used, which is rarer, the

arbitration process occurs first and the decision made by the third party is not shared with the disputants. They then take part in the mediation process with the knowledge that if they fail to come to an effective resolution, the arbitration solution will be revealed and will be binding on all parties. Thus, they have the chance to influence the third party only in the first stage; it motivates them to keep control of the outcome with themselves in the second (mediation) stage since they cannot change the binding, confidential decision later on.

Every barrier to a successful negotiation should be approached as a challenge, not a problem. If you can analyze and isolate the problem, then you can create solutions or options that may possibly resolve whatever is acting as a barrier. The more you can learn to overcome these challenging sticking points, the more you enhance your negotiation skills in the process. If all else fails, and you have truly exhausted all possibilities, then you also have the final option of simply walking away from the deal.

Summary

An impasse occurs when there is a breakdown in the negotiation process. There are various factors in a negotiation setting that can cause it, such as party characteristics, nature of the issues discussed, and so on. Resistance from the other party is one of the main sources of impasse, and changing one's perspective of the other party's issues may help in resolving the conflict. As suggested by Mayer, there are three main levels on which an impasse occurs: cognitive, emotional, and behavioral. Various strategies can be used to resolve an impasse, including mutual agreement on rules, improving one's communication, keeping control on issues, finding common ground, and so on. If the impasse cannot be resolved by the parties, a third-party involvement sometimes occurs, in the form of mediation or arbitration.

Discussion Case

John Rankin had grown up on his father's 200-acre farm in the lush countryside of rural Alabama. His father, William Rankin Jr, had ensured that John learned all the tricks of the trade. Presently, John's father had retired from the farm and spent most of his time at home, while John, who was recently married and expecting a child soon, administrated and managed the farm. During his free time, William Rankin had managed to invent a revolutionary irrigation system that would save several thousands of gallons of water per acre per year. He showed John his new invention and the two tried to implement it on their farm land. The system was a success and John quickly took a utility patent on the design. William, who cared deeply about the environment and knew of the farmer's plight, wanted to sell the invention to farmers across the country at a reasonable rate. John was also in a similar state of mind and also recognized the business potential of the product. Father and son decided to join hands and incorporated Rankin Nozzle in 2010. The plan was to distribute the product far and wide, helping as many

farmers as possible. In order to fund the production and distribution, John took out a mortgage on his house; he was confident that he'd be able to make the money back in no time.

John focussed on production while his father took care of the distribution. The price point they had decided would leave them with a \$1 profit, which was then split equally between the father-son duo. The price point was set by William, who believed that every farmer should be able to afford their product. While John was in a mind to set a higher price point, he believed that the volume of sales would make up for the low per-product profit. Business boomed initially and the father-son duo quickly had business coming in from the farms in the surrounding counties. However, all the money they made went back into production and customer acquisition. After about two years of production, they had covered about eight counties in Alabama but their product was relatively unknown in the rest of America. John also struggled with his mortgage and had another child on the way, which would definitely up his expenses. But he still believed in their product and listened to his father when it came to business decisions.

Eventually, the two agreed to bring on an investor to further increase the distribution and production capabilities of their firm. To this end, they pitched their product to Mark Rufus, who represented a firm that had quite a few investments in the agri-business industry. The meeting went smoothly and Mark was sold but he was concerned about their limited distribution and about why they had not expanded faster. He also believed that the price point was too low in order to bring on an investor. He wanted to sell the product at a price that was three times higher than its current price point of \$4. John and William both agreed that they needed some time to think over the proposal over and that they'd meet with Mark again the next weekend to finalize the deal.

Back at the farm, John voiced his concern regarding the mortgage on his house and about how they hadn't earned much despite selling large quantity of the product. He suggested that while pricing it at \$12 would be too high, they should still consider increasing the price before going for larger distributors. William, on the other hand, was aghast at this idea; his goal was to help farmers and the environment. He was not willing to budge and believed that the mortgage on his son's house would pay itself over time. In fact, he himself had taken a mortgage on his house back when he was his son's age. He was also averse to the idea of bringing on a distribution company into the mix as they would have to increase the price of the product in order to pay the distributors. While John understood and agreed with his father's sentiments regarding the good that their product did, he was also aware of its business potential. He wanted to make money with this business and hoped that he could sell off the farm one day.

Meanwhile, Mark was thinking about the immense potential the product had and was hoping that they could set up a licencing deal with a country-wide distributor. His calculations showed possibility of sales in millions of dollars in the first year itself. He was excited and was sure that he'd convince the farmer father-son duo to bring his firm on as partners.

Points to Ponder on

- What are the various characteristics in this scenario that are causing an impasse? Try to identify them from each of the three negotiator's perspectives.
- John loves his father and does not want to sour his relationship with him. However, he also needs to think about his family. What are the issues that John needs to address before pushing for a better price point in order to not hurt his father's sentiments?
- As each of the negotiators, what strategy would you follow in order to overcome the barriers put forth by the other two?
- Will ADR work in this scenario? How would bringing on an arbitrator change the equation between the father and son?

Activity

This is a typical buyer–seller negotiation. However, this involves cross-cultural transaction as both the buyer and the seller are from different countries.

Notes for Buyer

You belong to a developed country and have come to visit India. You like a pair of shoes which you found while you were roaming in the market. You know that a similar pair would cost you around \$200 in your country. You are also aware that those shoes are usually imported from India, but after quality checks. You are tempted to buy the shoes as you may get them at a significantly lower price. You are also aware that there is a 30–40 percent chance that shoes would be of inferior quality. However, considering the price, you are willing to take the risk of buying. You do know that you are buying in India and hence have to bargain hard.

Notes for Seller

You are a shoe seller. Your usual clients include Indians and foreigners, both. Hence, you quote the price to foreigners in dollars. The shoes usually cost you \$50. You have never gone abroad but you have an idea that these shoes are sold at a price of around \$250 there. An Indian buyer may not pay you more than \$80–100 for these pair of shoes. You have trusted suppliers and hence only about 10–15 percent of your shoes are of inferior quality and this has earned you a good reputation in the market. You usually try to sell the shoes to foreigners to make maximum profit.

Exercises

1. Multiple Choice Questions

- i. If a negotiation seems to be hitting an impasse, you could
 - a. reiterate the areas of agreement
 - b. remind the parties of the losses that could be incurred if a settlement is not reached.
 - c. break the issues into smaller components
 - d. All of these
- ii. What can be the causes of an impasse during Management–Union negotiation?
 - a. Very high unreasonable demands from Unions and a very low level acceptance of the demands from the Management.
 - b. Low leadership capabilities from either side to settle with a mutually acceptable solution.
 - c. External political factors which restrict the unions to agree for the terms and conditions.
 - d. All of these
- iii. Examples of conflict resolution activities that seek cognitive resolution are
 - a. truth commissions
 - b. victim offender mediation
 - c. citizen diplomacy initiatives
 - d. All of these
- iv. When working on a team, David is effective, even though he often expresses disagreement with the perspectives and judgments of his peers regarding various tasks that they are discussing. This is an example of:
 - a. cognitive conflict
 - b. emotional conflict
 - c. behavioral conflict
 - d. None of these
- v. Brendan is a well-respected employee who has been brought in to try to resolve a conflict between two employees in another department. His advice to them is to attempt to resolve their main issue first, and he has provided them with some new information that expands their understanding of the issue. Brendan's role is that of a
 - a. compromiser
 - b. arbitrator
 - c. mediator
 - d. negotiator
- vi. Jon Nicolas has been brought in to resolve the stalemate between the union and management regarding the issues of wage increases. She has indicated that if the two parties cannot resolve this issue themselves, she will have to impose a decision herself. Jon Nicholas is acting as a
 - a. facilitator
 - b. arbitrator
 - c. mediator
 - d. conciliator
- vii. Labor and management at Grand cabs & Co. cannot agree upon a contract for the cab drivers. Each side thinks that they are negotiating fairly, but no agreement appears to be possible. What could be the reason for this impasse?
 - a. Convergent or congruent interests
 - b. Parties interests are opposed to each other
 - c. There is sensitivity to each other's needs
 - d. None of these

2. True or False

- i. Negotiators from different cultures may differ in their acceptance of egalitarian or non-egalitarian power distributions, their tendency toward collectivism or individualism, the extent to which they hold stereotypically masculine or feminine values, and in their tolerance for uncertainty.
- ii. In an impasse, parties tend to view their commonalities negatively; i.e., they focus more on perceived differences and believe that they have lesser in common than they actually might.
- iii. Negotiations can be blocked when one party is negotiating integratively, and the other is bargaining distributively.
- iv. Cultural factors can influence the parties' definition of negotiation, their selection of negotiators, the choice of negotiation protocol and timing, their willingness to take risks, and the form that any settlement takes.
- v. Managing negotiations within an existing relationship requires building trust, fostering positive emotions, and attending to issues of justice and fairness.
- vi. The presence of shared goals, trust, and clear communication between the parties will facilitate effective distributive negotiation.

ANSWER KEY

1.	i. d	ii. d	iii. d	iv. a	v. c
	vi. b	vii. b			
2.	i. ture	ii. true	iii. true	iv. true	v. false

Exhibit 7.1

Ransom Negotiation

The call came at 5.30 pm on the home landline and was picked by Dr. Malhotra who had come back from her clinic earlier than usual, and was looking forward to the evening that she and her husband had planned in anticipation of their son Bobby coming home for vacation. The voice on the other side was clear and terrifying. They had their son and in exchange for his safe return, they wanted ₹ 8 crore. Dr. Malhotra almost fainted when she heard the demand. While the Malhotras were fairly well to do in terms of finances, with both the husband and wife having a thriving practice, most of their savings were used up in building their new clinic. She called her husband on the phone as well as their close friend, who was the Police Commissioner of the city. They both entered the home together and Dr. Malhotra repeated the conversation she had had with the kidnapper. The Malhotras were clear on one thing: while they wanted the Police to initiate their investigation, they wanted a professional negotiator to hammer out the ransom terms. The next call from the kidnappers was to come on the following day at 4 pm.

Checklist for Ransom Negotiations

- ☐ Ask for proof of life first. Demand to speak to the captive on the phone, or better still, on video chat. If that is not possible, ask the abductor to answer something only the kidnapped would know, like the name of his first school principal or the name of their first pet.
- ☐ Find out everything that you can about the kidnapper by analyzing possible suspects, voice, especially the manner of speaking (as you talk). Also, find out what your red lines are in terms of money and/or other things that you can offer.
- ☐ Never accept the first offer irrespective of its affordability. Since kidnapping is about control and power (or your lack of it), you need to do some back-and-forth before a deal is done so as to not deprive the kidnappers from the psychological advantage they think they have. In fact, start with a low offer.
- ☐ Be mentally prepared for a long haul. During the course of the conversation, there would be several threats made by the kidnappers, but don't let them waver you from the steady course of negotiation that you are following. Kidnappers don't want to lose control, and while they may be professional kidnappers (and that's good news for the motive is clearly money), they may not be the best negotiators. It's not uncommon for the hostage to be put on the phone to beg that you arrange their release immediately. Then the kidnapper might seize the phone and make the vilest threats imaginable. If you find yourself on the phone with the kidnapper in such a situation, keep a cool head and remember that all you want is to conclude the ransom negotiation safely. For this reason, it is always better to use the services of a professional negotiator than trying to do it yourself.
- ☐ Try to figure out if the person negotiating with you has the authority to agree on a number or is taking orders from someone else. If it is the latter, things might be more complicated than this being just a kidnapping for ransom. Look for other motives.
- ☐ Avoid publicity. The last thing a ransom negotiator needs is a rally, a candlelight vigil or a bunch of newspaper articles for whatever good intentions they may be done with. Any of this can lead to either the kidnappers getting wary, edgy or make them ask for higher ransom.
- ☐ Once you've settled on a sum, work out and coordinate the logistics. Be steadfast and communicative; be gentle but assertive; the kidnappers must maintain confidence in you to deliver the promised cash, just as you will need to have faith in them to hand over the victim.

Exhibit 7.2**Negotiation Dilemmas and their Resolution**

- ☐ You do your preparation for the negotiation and the process begins. After a short period, the other side makes an offer far in excess of your "wow".
 - ◆ Question your preparation and revise.
 - ◆ Do not accept the offer.

- ◆ Thank and bank. Give them more in the next negotiation that you do.
- ◆ Give more on other issues to create equity.
- ❑ You have just started the negotiation when the other party puts an offer on the table and tells you, “take it or leave it.”
 - ◆ Come up with a positive statement that addresses a bigger picture.
 - ◆ Shrug but don’t leave.
 - ◆ Bounce the threat back with upward appeal.
- ❑ You go into the final stages of an important negotiation fully prepared. You ask your initial fact-finding questions and discover that the spreadsheets you have prepared include a fatal arithmetic error. Canceling the meeting is not an option.
 - ◆ Ask for a recess.
 - ◆ Admit the fault and apologize.
 - ◆ If it seems to be derailing the process, use emotion.
- ❑ You are looking for a price reduction but the other party produces a large amount of statistical evidence concerning rising raw material prices and wage inflation.
 - ◆ Use emotional appeals.
 - ◆ Let them justify their prices. Ask for more data to substantiate.
 - ◆ Beat some of their logic with your own.
 - ◆ Dilute the argument by pointing out lack of relevance of data.
- ❑ You walk into a room and the other party is sitting behind a large desk. They ask you to sit 10 feet away.
 - ◆ Blame the sunlight or your hearing and pull your chair closer.
 - ◆ Seek to reorganize the room.
 - ◆ Do not display fear or embarrassment.
 - ◆ Counterattack.
 - ◆ Nice office, Mr. Sharma. I had one like this last year before they promoted me.
- ❑ The other party makes a particularly offensive, racist remark and finishes it with “don’t you agree?”
 - ◆ Pretend that you didn’t hear it right and say, “Let’s talk about it some other time.”
 - ◆ Ignore. Do not react big time.
- ❑ A seller tells you that he needs just one more big order to win a laptop. He asks for your help and tells you that he will be eternally grateful.
 - ◆ Ask questions to figure out cost and importance of the laptop for him.
 - ◆ Squeeze as much as you can on the cost front.
- ❑ The negotiator opposite reaches across the table and shows you a fax from her boss saying that she must not offer more than a 2 percent discount.
 - ◆ Go for upward appeal, saying, “Why don’t I have a word with your boss?”
 - ◆ Put pressure.



Closing the Deal

Learning Objectives

After studying this chapter, you will be able to

- Assess how deals are closed in negotiation
- Learn how to prepare agreement templates
- Learn how to write contracts
- Explain how an agreement can be renegotiated

REACHING SETTLEMENT

Karan Khanna owns an HR firm, Maxim, which provides headhunting and HR consulting services to some of the major firms in Chandigarh. Considered a medium-to-big HR firm in the city, they had over 100 employees and offices in two locations. Karan was young and ambitious, an entrepreneur who established the firm in his early 20's. He wanted to expand it PAN India swiftly. He was zealous to take on the industry and believed he had the right resources and direction to do this.

What he didn't anticipate, however, was the almost insurmountable difficulty in getting new clients. He had started with other tier-two cities deliberately instead of metros, assuming it would be a good step up to move slowly but steadily into the larger space while increasing his company's bandwidth. It was unfortunate, really, that he chose to do this just when recession hit the economy out of the blue. What should have been an uphill task for a small-sized company now turned into an arduous challenge.

Karan wasn't the kind to give up or wait on the sidelines though. He wanted what he wanted and was ready to do whatever it took. In true Indian-businessman style, he decided he would hit the large fish hard and create a bang. And that's what he did. He started

networking aggressively, attending conferences, and even met with senior management officials of major companies in an attempt to get his foot in the door. After many months of fruitless pursuit, he hit a potential pot of gold. Puria, a 30-year old pharmaceutical biggie from Pune, was looking at conducting a major succession planning exercise across middle and senior levels and was scouting for well-placed HR consultants who did not charge like the global HR firms did. Karan knew his firm fit the bill perfectly; the only thing lacking was previous experience on a big assignment like this one. Did he really have the resources and the skills to deliver on something this major? He believed so. However, he also knew that making a pitch to Puria, especially since they were a firm with a conservative corporate mentality and work culture, would be a risk. He did not want to lose the account; on the other hand, he knew the lack of similar experience would not work in his favor.

Therefore, he decided to partner with a friend's better-known consultant company, Zeus HR. The agreement he made with them was to use a few of their consultants on the Puria assignment if it came through, as and when required. Since their experience and bandwidth was bigger, it would be an add-on for his company. Armed with all of his resources and gumption, he negotiated with Puria, showcasing Zeus' experience as part of the pitch. He even showed off some of his earlier projects, which were done in partnership with Zeus. He negotiated well, bringing down costs and keeping tight timelines in place for the project.

Impressed with what they saw and after timely consideration, Puria decided to go with Maxim. The company, of course, rejoiced and got to work. Succession planning for 140 people began; a couple of Zeus' consultants were called in usually for guiding the team, but Maxim did about 90 per cent of the work. Karan pushed them hard and rolled up his sleeves too, getting into the details while also holding a bird's eye view of the project.

Unfortunately for him, one of the Puria's executives who had wanted a firm of his choice to undertake the project, got wind of the partnership between Zeus and Maxim. He spoke to a few of the researchers stationed at Puria's offices in Pune and learned that they had never executed an assignment this big before. He took this information to the CEO, Prashant Thakur, and emphasized on the lack of experience that had been omitted by Karan in his communication. Thakur, a man of strict work ethic, was furious. He immediately contacted Karan, giving the young man an earful as he felt was rightly deserved. He asked Maxim to stop working immediately and set up a termination meeting.

Karan realized that at this point not only would his company's hard work and efforts go in vain, but its finances and reputation were in trouble unless he managed to turn the agreement around. He decided to bring more forthrightness to the table and communicate with the goal of retaining the client. Thakur was in no mood to listen, however; he wanted no renegotiation. Karan then pitched to him a reworked agreement, with clauses that he had not added to the original contract or mentioned at any point. If Thakur would allow Maxim to work on the project, Maxim would bring Zeus on as a 50 per cent partner on the project and utilize its experienced consultants while his own employees shadowed and executed under their guidance. The major chunk of research and planning operations would be carried out by Zeus, while Maxim would be in charge of simply executing the succession plans for the company and being the point of contact for Puria.

Thakur reluctantly looked through this plan, and realized that it covered most of the issues they had with the original agreement and lack of communication. He was also impressed with the earnestness and learning curve he witnessed. However, he wanted to make a strong point and asked Karan to carry out an audit of the entire project, which would have to be executed by Zeus' team. He also asked for a point of contact to be appointed at Zeus and demanded that weekly updates to be given to him directly. Further, he asked Karan to forego the middle retainer for a few months; it would be paid once the audit was complete and accepted by Puria's executives.

Karan was not too keen on all the pointers given by Thakur, but realized it was a lesson for him and his company. He weighed the pros and cons and finally agreed to the new terms negotiated by Puria, and focused on making the most out of the project in terms of new exposure, via Zeus.

8.1 CONTRACTS AND NEGOTIATION

Once the other steps of negotiation have been completed, in the last phase comes the closing of the deal—getting into agreement mode. As we know, reaching an agreement can range from being a quick or simple process to a long, conflict-ridden and complicated one. In business negotiation, reaching an agreement is followed by placing it in writing to truly close the deal and then abiding by the terms in the contract.

This is especially important since unintentional miscommunication or misunderstanding of terms or what has occurred in the negotiation can lead to the souring of relationships very easily.

8.2 AGREEMENT TEMPLATES

An easy way to formulate an agreement is to have a template in place. Many negotiators have come up with templates that work in various negotiation settings. While none of these can be exhaustive, they cover the most critical aspects of the agreement: the price, terms, as well as the *what-ifs*, i.e., potential problem areas and possible issues. Often, third parties such as accountants and lawyers of the involved parties draw up the contract or are a part of the agreement. Below is a list of some of the key elements of an agreement template.

- **Parties:** All those involved in some way or another in the negotiation
- **Roles:** What tasks each party is responsible for and the duties they have agreed to carry out
- **Timelines:** This includes deadlines and potential consequences of failing to meet them
- **Point person:** A point of contact on each side who is responsible for communication and meeting the terms of the contract

- **Intent:** This includes what the agreement is aiming to accomplish—the ultimate goal of the interaction
- **Measurement of satisfaction:** The criteria that defines what achievement of the stated goals looks like
- **Consequences:** Specific actions or outcomes that can or will occur if the terms of the agreement are not met for any reason
- **Modification:** This includes specifics around how the agreement can be modified if necessary, as well as the procedure to be followed to do so in various settings; such as, arbitration during a conflict
- **Exit strategy:** Specification of the process for exiting the agreement, should any party wish to do so in the future

8.3 WRITING CONTRACTS

While there are often situations that might not need written contracts in place, especially personal or friendly negotiations, it is important to do so in business or other negotiation settings to ensure that all parties are on the same page and to make the relationship/business in question proceed smoothly. The extent of the contract's formality and specifics can depend on various factors, such as terms of the negotiation itself, the rapport among the involved parties and so on. There are three main aims of writing an agreement, as given below:

Commitment

Writing a contract instead of simply having an agreement ensures more commitment from all parties since the terms are on record. It creates an environment of certainty and closure that helps all parties fulfill their end of duties and tasks.

Communication

Human memory is often notoriously small, hazy and biased. Having a written contract can help eliminate misunderstandings, forgetting duties, or backtracking on one's terms.

Enforceability

A written contract allows for easier conflict resolution, if it occurs later in the relationship. It carries the weight of evidence and can be used to enforce the terms that have been agreed on. In conflict, it can be used to come to an amicable resolution or to terminate the relationship if necessary.

Writing contracts is important in business or other negotiation settings to ensure that all parties are on the same page and to make the relationship/business in question proceed smoothly

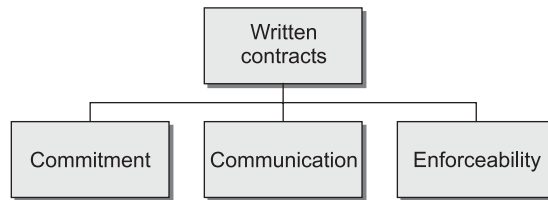


Figure 8.1 Elements of written contracts

Formal contracts can be drawn up in three ways: *Single-text procedures*, *two-text procedures*, and *neutral write-ups*. *Single-text procedures* are those where a small group of representatives draws up a written contract that is presented to the rest of the participants (Fisher and Ury, 1978). The group revises the contract until all parties are satisfied with the terms. *Two-text procedures* are those where each party writes its own version of the contract and each version is integrated into the final one. While this is a common occurrence in negotiations, it can become complex and long-drawn, especially in large multi-party settings. A *neutral write-up* is a contract made by a third party, such as mediators or lawyers who then share the document with each party for revision and confirmation.

Single-text procedures are those where a small group of representatives draws up a written contract that is presented to the rest of the participants and the group revises the contract until all parties are satisfied with the terms.

Two-text procedures are those where each party writes its own version of the contract and each version is integrated into the final one

A neutral write-up is a contract made by a third party, such as mediators or lawyers who then share the document with each party for revision and confirmation

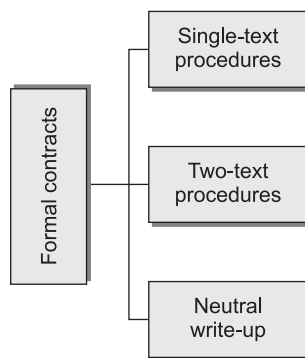


Figure 8.2 Types of formal contracts

8.4 RENEGOTIATION

It is quite possible and common for companies and parties to renegotiate contracts that turn out to be less than satisfactory for business or their specified outcomes. Thus, negotiators usually have strategies and procedures in hand to *renegotiate*, and to deal with it productively. While most parties and people perceive renegotiation as a failure, a weakness or a disappointing

outcome of the original negotiation, it can be a constructive process that allows for better deals to be struck and more effective contracts to be put in place.

A rudimentary renegotiation procedure often used by negotiators across settings (Chung, 1991) is having a *financial hostage* or a large deposit that is held by the party and given back to the other party without interest. Think of a property deposit one pays when renting a house. However, there are also three distinct categories of renegotiation, as given in figure 8.3.

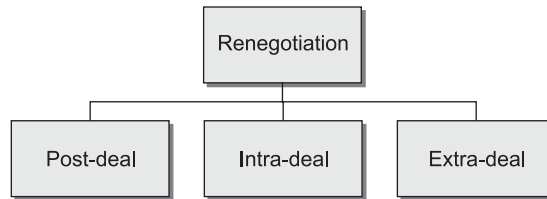


Figure 8.3 Types of renegotiation

Post-Deal Renegotiation

In this situation, one of the most common scenarios in negotiation settings, parties finish up their existing contract and then attempt to renew their business relationship. This new negotiation process may have different factors involved that affect the new strategies, tactics and outcomes of the renegotiation. Firstly, their earlier experience together will have an effect on their renegotiation since they have an idea of the other's goals, methods, intentions, capabilities, and reliability. Next, some if not all queries and doubts about the other party and their common outcomes, such as risks and opportunities have been cleared, which will add to the positions each party takes in the renegotiation. Lastly, the parties' desire to reach another agreement will be influenced by their ideas about and input in the first negotiation, and the extent to which they believe this will help in the new one.

Post-deal renegotiation happens when parties finish up their existing contract and then attempt to renew their business relationship

In any negotiation, one of the main factors for any party is the alternatives that are available (see BATNA). In a post-deal renegotiation, each party's evaluation of its alternatives will be affected mainly by its prior relationship with the other party, to the extent that the success of the post-deal renegotiation may depend solely on the nature of the relationship. A strong and positive one will bring an environment of common goals and resolutions, while a weak or conflicted one will bring caution and an adversarial mood.

The principles to be kept in mind when in a post-deal renegotiation include *providing for post-deal renegotiations in the original contract*. In negotiations where the likelihood of post-deal renegotiations is high, parties should state in their original agreement the process and rules to be followed, should there be a post-deal renegotiation. This can include when the renegotiations are to begin after the first one, how long they should continue in case there is no new outcome reached, the new information to be shared, use of third-party mediators, and the venue. Keeping track of the issues encountered during the original agreement period will also enable the parties to resolve the same during renegotiation. *Understanding the alternatives*

to the deal is another principle. It is commonly known that the better the alternatives away from the negotiation setting, the stronger the party's position at the bargaining table.

Intra-Deal Renegotiations

A second type of renegotiation is when the original agreement states that parties can renegotiate or review certain terms or clauses at specified intervals. The premise here is that renegotiation is anticipated as a legitimate activity in which all parties negotiate in good faith. Being part of the original deal, it is called *intra-deal negotiation*.

Intra-deal renegotiation happens when the original agreement states that parties can renegotiate or review certain terms or clauses at specified intervals

Of course, this kind of renegotiation can have its disadvantages. It allows parties to use the renegotiation clause as a lever to force changes on the other parties. However, many experts are of the opinion that the addition of a renegotiation clause may contribute to negotiation stability in certain settings, such as when changes in the contract cause major financial issues to a party or when parties run the risk of misunderstanding or miscommunication due to cultural differences.

Approaches to intra-deal renegotiation include the following:

- *Implicit renegotiation clause* consisting of a framework for varied individuals and groups.
- *Review clauses* that include parties meeting and checking in good faith if the agreement remains fair and in everyone's favor, and to resolve issues.
- *Automatic adjustment clauses* that refer to terms for certain factors like prices or interest rates that are subject to change by reference to particular indices. For example, changes in economic conditions, a sudden fall in commodity prices, development of a new technology, or unexpected increase in energy costs can force everyone back to the negotiating table.
- *Open-term provisions* where certain terms and issues are agreed to be negotiated on at a later time, in keeping with the future goals and possibilities in the deal.
- *Definite renegotiation clauses* can be added to ensure that the parties renegotiate terms influenced by changes in circumstances or unforeseen developments; for instance, laws, commodity prices and so on.

Extra-Deal Renegotiation

Renegotiations that occur in case of violation of the original contract as well as those that take place in the absence of a specific renegotiation clause are known as extra-deal negotiations: they occur outside the framework of the existing contract. These kinds of renegotiations can be exceedingly conflict-ridden, stressful and fatiguing.

Extra-deal renegotiation happens in violation of the original contract as well as in the absence of a specific renegotiation clause

Extra-deal renegotiation happens in violation of the original contract as well as in the absence of a specific renegotiation clause.

There are many causes of extra-deal renegotiations, of which two major ones are *flawed original agreements*, where a written contract, especially in long-term deals, only achieves a part of the outcome due to lack of predictability of all events and conditions and large and often restrictive costs of long-term deals. Further, *changes in circumstances* since the making of the original contract are a second major cause for post-deal renegotiations. A sudden fall in commodity prices, outbreak of war, currency fluctuations and so on are factors that can lead the parties back to negotiation. Generally, changes in circumstances either increase or decrease the costs and benefits of the agreement to the parties. If a change in circumstances means that the cost of staying in an agreement for one party is greater than the cost of withdrawing from it, the outcome will most likely be rejection or a demand for renegotiation. These costs and benefits can be of various types: economic, social, political or otherwise.

All the types of renegotiation are a constant and ever-present fact of negotiation and contracts. They differ from original negotiation as well as among themselves in terms of the dynamics between parties, the strategies and tactics used and the goals they are required to achieve.

Summary

Closing a negotiation usually occurs with a contract being agreed upon. Frequently, an agreement template is created by the negotiator, his team or organization for using in case of a closing; think of the lease agreement signed with your landlord, for example. Sometimes, third parties draw up these templates, which consist of critical and optional elements and clauses. If a contract is to be written for the specific negotiated deal, it could be to ensure commitment from all parties, to communicate details of the deal, and/or to allow enforceability in case of any issues occurring later. Contracts or agreements may also have a renegotiation option, whereby the parties can come together to negotiate again due to failure of the first contract or to renew their relationship. Renegotiations are of three types: post-deal, intra-deal, or extra-deal.

Discussion Case

(Continued from Discussion Case in Chapter 6)

During their lunch together, John managed to convince Rohit that the best way forward for both their firms would be to partner with each other. The plan was to break up the entire event into individual tasks and then allocate portions of the budget to each task. They would then decide which of their respective NGOs, ABC and XYZ, would be in the best capacity to handle those tasks. During their next meeting with Radhika, the two presented this new proposal to her and she was overjoyed. As far as she was concerned, she was getting two NGOs for the cost of one. Radhika shook hands with them both and told them that she'd have her assistant mail them the details of the event by that evening.

Sure enough, the mail arrived and John got to work right away. He called Rohit and set up a meeting with him that weekend to discuss the workflow. Meanwhile, John got his team on

the job and went over the details with them. By the time the weekend rolled around, John was ready with the task break up, budget allocation and a tentative list of tasks that he believed his NGO would be able to handle well. Rohit arrived to the meeting having done a similar amount of research from his side. The two were pleasantly surprised to find out that save for a task here or there, their task break ups matched. They quickly decided what tasks each of their NGOs would handle, shook hands and left.

That day after briefing his team, John sent an email to Radhika to keep her in the loop on their progress. She replied that she was overjoyed and that she would like to review their progress at the end of the following week. John checked with Rohit and upon receiving the confirmation from him, agreed to the meeting. The entire week was mostly spent in planning, strategizing and researching. The ground work would only start the next week. The week went by quickly and John found himself waiting outside Radhika's office for the second time. Both of them had briefed each other of their progress and had reports ready to present. Radhika ushered them in eventually and after the usual pleasantries and tea, asked for the progress reports.

John went first, followed by Rohit. Both their NGOs had gone above and beyond, Radhika was impressed. They also had action plans ready for the following weeks. At the end of the meeting, John asked Radhika when they'd be able to release a portion of the agreed upon budget of ₹ 30 lakh. He explained that they'd need money once the ground work started the next week. Rohit added that his team would also need access to certain government offices in order to get permissions and licences for their campaigns. Radhika was a little taken aback, she hadn't expected to be so fully involved in the day-to-day operations of the NGOs. She told John that it would take them some time to release the money as they were on a slightly tight budget at the moment. But, she also assured him that they would definitely give them an advance and hoped that he would continue with the work for the time being. John accepted graciously, as they had enough in their meagre coffers to support the project for another two weeks. He was sure that Radhika would come through by then. Rohit was also assured of assistance in the matter that he had enquired about and was given the contact of a high-ranking government official to reach out to for help. Both of them left the meeting feeling content and energized for the weeks ahead.

During the end of the second week, John's team ran into some problems and needed to clarify certain details from Radhika's office. However, upon reaching out to her, Radhika was unavailable and redirected their queries to her assistant. This frustrated John as her assistant was not as knowledgeable as Radhika was and John had to explain the entire process from start-to-end to him. Eventually, after spending over an hour over the phone, John got the information he was looking for. This would have taken Radhika five minutes to do. She was very busy and John understood that, so he did not hold it against her. On the Wednesday of week three, John was meeting with Rohit to discuss their progress when Rohit brought up the fact that Radhika was virtually unreachable. John told him about his own experience and mentioned that perhaps she was just too tied up in work. Besides, the elections were around the corner as well. The week ended and John's NGO was almost out of cash and they were in

dire need of the budget release from Radhika's side. John spoke to Rohit about the same and the two decided to set up a meeting with her that weekend.

John tried to call her but she was always unavailable. Eventually, he got through to her assistant who said that Radhika was out of station for that weekend. John told the assistant about the promised release of budget they had discussed during the previous meeting but the assistant said that he had no authority over such matters. John was shocked. By the middle of the next week, John had no money left and the work would come to halt unless he got something from the promised budget. After trying several times, he finally got through to Radhika and she called both John and Rohit in for a meeting. John felt relieved. However, instead of discussing the budget at the meeting, Radhika announced that the project would have to be cancelled and she apologetically asked the two NGOs to cease operations immediately. John was shocked. He asked her about the money that had gone into their work so far. Radhika told him that they would reimburse their NGO for whatever they had spent upon submission of sufficient proof. While Rohit's NGO had not yet spent any money on the project (most of their work was done behind a computer screen), his team had spent several days on this. Radhika apologized once more and excused herself as she had a meeting she had to attend urgently.

Points to Ponder on

- Where did John and Rohit go wrong in their negotiation with Radhika? What could they have done to mitigate the damages of such a disastrous turn of events?
- Outline a brief agreement template that John could have used during his first meeting with Radhika
- Is renegotiation possible in this scenario? If so, how would John or Rohit proceed with the renegotiation?

Activity

Trainer's Material

Tell each student of the class to decide the evaluation scheme for the course of Negotiation. Written exam holds 50 per cent weightage. The rest can be in terms of quizzes, assignments, projects, class participation and Power Point presentations. The students may suggest some new ways of evaluation.

Give some time to decide

Once every student decides the scheme, divide the class into groups of four or five. The groups will have to discuss among themselves and come up with a common evaluation scheme for their group.

It is important that the group agrees on a common evaluation scheme, otherwise, they will not have any representation in the next stage.

Give some time to decide

Each group will nominate one member as their representative. Now, the group representatives will negotiate amongst themselves and try to come up with a common evaluation scheme. The representatives have to make sure that the scheme is acceptable to the Course Instructor, as there is a high possibility that the same may be adopted for evaluation.

In case the group representatives do not reach a consensus, the instructor will select the evaluation scheme of one of the groups and the rest of the class has to follow it. There is a high probability that the instructor will choose the most difficult and unwanted evaluation scheme. Hence, you do want to arrive at a common evaluation scheme.

Expectation from students

The students are expected to analyze the communication styles, the body language and the way negotiation proceeds at stage 2 and 3.

Exercises

1. Multiple Choice Questions

- i. What can lead to renegotiation?
 - a. Changed circumstances
 - b. Imperfect contract
 - c. Both a and b
 - d. None of the above
- ii. Which of the following is true about writing a contract?
 - a. A confidentiality clause is inserted into an employment contract if the company believes that the employee will deal with sensitive information.
 - b. *Single-text procedures* are those where each party writes its own version of the contract and each version is integrated into the final one.
 - c. A clause describing the termination of the contract should be included in the contract.
 - d. both a and c
- iii. On what parameters do renegotiated contracts differ from original negotiations?
 - a. Dynamics between parties
 - b. Strategies and tactics
 - c. Goals
 - d. All of these

2. Fill in the Blanks

- i. A _____ is a contract made by a third party and then shared with each party for revision and confirmation.
 - a. active write-up
 - b. passive write-up
 - c. neutral write-up
 - d. tertiary write-up

- ii. The three main aims of writing an agreement are _____, _____ and _____.
 a. commitment, communication, enforceability
 b. language, communication, fairness
 c. commitment, fairness, profit
 d. enforceability, fairness, profit

3. True or False

- i. There is less mutual benefit in renegotiated contracts.
 ii. Addition of a renegotiation clause may contribute to negotiation stability in certain settings.
 iii. Flawed original agreements are one of the major causes of intra-deal negotiations.
 iv. Use the right parties to renegotiate, put yourself in the other side's position and reframe the issues.
 v. Renegotiations often happen against a backdrop of threats and counter threats of lawsuits, contract cancellations, and the loss of future business.
 vi. As has been observed, it is more costly to walk away from an initial negotiation than to abandon a renegotiation.
 vii. A change in circumstances usually increases the deal's costs or reduces its benefits for one side.

4. Match the following

i.

a. Intra-deal negotiation	1. One side believes it is being asked to give up something to which it has a legal and moral right.
b. Extra-deal negotiation	2. Each party's evaluation of its alternatives is highly affected by its prior relationship with the other party.
c. Post-deal negotiation	3. Renegotiation is anticipated as a legitimate activity in which all parties negotiate in good faith

ANSWER KEY

- | | | | | |
|---------------------|-----------|------------|----------|---------|
| 1. i. c | ii. d | iii. d | | |
| 2. i. c | ii. a | | | |
| 3. i. true | ii. true | iii. false | iv. true | v. true |
| vi. false | vii. true | | | |
| 4. i. a-3, b-1, c-2 | | | | |

Exhibit 8.1**Negotiating with Terrorists**

Country Airlines Flight 418, commonly known as CAF 418, was an Airbus A300. It was *en route* from the International Airport in country XYZ to an International Airport in country ABC when it was hijacked on a cold December evening. A terrorist group, MUH, claimed responsibility for the hijacking. According to one of the flight attendants', a masked, bespectacled man threatened to blow up the plane with a bomb and ordered the Captain to "fly west". Four other men wearing red masks then stood up and took positions throughout the aircraft.

The aircraft was hijacked by gunmen shortly after it entered the airspace of ABC, at about 17:30 local time. The hijackers ordered the aircraft to be flown to location A in country ABC, which shared its borders with country PQR. The relation between ABC and PQR had been historically mistrustful, especially since PQR was seen as sympathetic to certain terrorist groups. Meanwhile, a Crisis Management Group (CMG) was hurriedly convened by the government of ABC. At A, the captain of the aircraft requested refuelling for the aircraft. However, the Crisis Management Group in ABC directed Airport authorities at A to ensure that the plane was immobilized. The armed personnel of the local police were already in position to try and do this. They did not receive approval from the government of ABC, which was a coalition government and thus felt the need to discuss the issue with its coalition partners before taking a decision. Eventually, a fuel tanker was dispatched and instructed to block the approach of the aircraft. As the tanker sped towards the aircraft, air traffic control radioed the pilot to slow down, and the tanker immediately came to a stop. This sudden stop aroused the hijackers' suspicion and they forced the aircraft to take-off immediately, without clearance from air traffic control. The aircraft missed the tanker by only a few feet.

The hijackers finally forced the aircraft to land in a country DEF, which shared its borders with PQR. DEF historically had good relations with ABC, though their relationship with PQR blew hot and cold. Some of the passengers in CAF418 tried to resist, and in the scuffle that followed, the hijackers fatally stabbed one and wounded several others.

The government of ABC, which was a democratic country, opened up the channels of communication with the hijackers, who demanded the release of some terrorists held imprisoned by ABC. The government of ABC, though opposed to dealing with hijackers, was under pressure from the families of the passengers aboard CAF 418 as well as opposition parties, which were blaming the government of inaction. The hostage crisis entered its fourth day, and a government minister led panel of negotiators, which comprised, apart from the minister, three senior bureaucrats, could not make any headway in the negotiations.

Basic Preparation for Hostage Negotiation

- ❑ Identify and address the issues beyond terrorism. Terrorism, even though concealed in the veils of cause, is usually related to structural issues like poverty, unemployment and inequality.

- ❑ Do not negotiate based on a belief system, but focus on specific items. For instance, if terrorists demand specific things like money, freedom for prisoners, or access to media, then negotiation around such issues is far easier than the belief system itself.
- ❑ Try and stay as calm as you can in the first few hours of the crisis for they are usually the most dangerous for hostages, as the terrorists are both nervous and aggressive. When the situation has become more stable, the risk of having to face unexpected events reduces on both sides. Then, the actual negotiation can start.
- ❑ Be mentally prepared for a long haul. Unlike many hostage/kidnapping situations, the actions of terrorists are supported/sponsored by other agencies, and thus the process can be long drawn.
- ❑ Effective negotiations can begin when the parties perceive themselves to be in a mutually hurting stalemate and see a way out. Though it may sound counterintuitive, try to get a professional negotiator on board, who is NOT a decision maker. The negotiator in contact with the terrorists may develop some empathy toward them, and may therefore be influenced by them and therefore it is useful if he/she does not have the authority to make strategic decisions.
- ❑ Maintain pressure (stalemate) while offering a way out. Demonstrate to the terrorists that there is something to gain from negotiation. Keep the communication channel open and offer some small concessions to win their trust and divide their ranks.
- ❑ Divide the terrorists into those who are willing to talk and are more flexible and those who aren't. Run a complete check on their identity, their background, their motivation, their recent activities, and their state of mind. In the absence of reliable data, try and glean information through open-ended conversations and careful listening. Identify those who seem open to talks. Split moderates from extremists by emphasizing alternative means to the moderates at a lower cost than the use of terror. Find out as much as possible about the terrorists' values and goals.
- ❑ There is a particular moment when you would realize that it is possible to conclude a negotiation. While there is no exact formula for predicting when this moment will be, there will be some indications that the situation is ready for settlement. For example, when the terrorists keep talking longer than necessary to the negotiator, when they speak about something other than the debated issues, and when they start considering the future. Once you feel that this moment has arrived, offer a solution and push for a resolution.



Third-party Negotiation

9

Learning Objectives

After studying this chapter, you will be able to

- Describe the nuances of conciliation, mediation and arbitration
- Participate in and conduct collective bargaining
- Assess the skills required to be a mediator

COLLECTIVE BARGAINING

It was after 1 am. The conference room was packed with the senior executives of Michelor Inc., a global sportswear giant. Midnight meetings were not a normal occurrence at Michelor's Antwerp headquarters (they were known for their corporate work culture), but this was an emergency. Their manufacturing unit in Baguio, Philippines, had shut down a week earlier due to workers' strikes. Talks were initiated but had not reached a conclusion.

The union representative from Philippines, Angela Santos, was also a government consultant and was in Antwerp to manage their interests. This made the situation, already fraught with tension, more critical. The Michelor board knew, without being directly communicated, that the government of Philippines could nationalize the factories if the workers' demands were not met. Precedent told them that it was possible; and while the Philippines didn't care about the job losses due to their economic policy, Michelor would be hit very hard. Moving the business to their other units in South Asia was possible only over a period of time, and the current slump would be difficult to handle. Whatever was to be done had to be done in the Philippines, now.

There were two major issues on the negotiation table: workers' hours and overtime payments. The union was asking for a reduction in hours, which would by default affect overtime payments. Allegations of arduously long hours and meager or no overtime had been flying around. While Michelor followed international labor guidelines, it was understood that the unit needed to function at a consistently high rate, to be considered profitable.

The chairman and founder of Michelor, Pierre Durand, was a 30-year veteran of the industry. He wanted the COO, Simon Fromme, who was Michelor's negotiation representative, to use strong strategy and the necessary hardball tactics to bring the desired outcome. However, the relatively newly appointed CEO, Cathy Janssen, was an executive with experience in cooperative strategy and had a healthy disdain for hard tactics. As a protégé of Durand and a well-rounded leader, she knew it was up to her to turn this situation around. Fromme, as the negotiator, agreed with neither and wanted to take a situational approach to the scenario.

As tensions escalated within the boardroom and in the manufacturing unit, Durand and Janssen were having negotiations of their own. Janssen knew she had to make her point in this scenario to be taken seriously; further, she knew her approach was not only feasible but worked more optimally for the company in the long term. Durand, with his hard strategy, wanted to get done with it and move on to production and business as usual. In the meanwhile, Fromme decided to speak with Santos. Santos suggested a completely different resolution: to let the government of Philippines handle the workers, while Michelor dealt with her as their representative; essentially, to make her the middleman. Her argument was in terms of cultural biases made easier and her experience in handling large union issues in the country with several other global giants.

Fromme found this an interesting proposition, and took it to Durand. He knew Janssen would not agree, so hoped to sell it to Durand and move on from there. Durand, in turn asked him to go ahead with the proposal if he, Fromme, got Janssen's approval as CEO and the ultimate decision maker. This put Fromme in a quandary. A master negotiator with unions and factories, internal selling was not his strong point. Michelor historically had split those two on strategy lines; his team would have participated in this. However, this one was on his plate.

After speaking with Janssen, who flat out refused, Fromme mulled over the situation and finally asked Durand to sign on it for the middle-term, bypassing Janssen's authority (after all he was the senior member), and to re-open the contract for renewal once the main goals were achieved. It was a short-term solution that came with efficiency but certain risks: the Philippines government, once involved, could start taking a higher hand in the affairs of the unit in spite of what Santos proposed; a moderate amount of authority would have to be relinquished, even if for a while, which could lead to other issues coming to the fore. While Durand understood the time-sensitive need for a solution, he knew it was not optimal and with a certain amount of negotiation strategy and creativity, it could be tweaked in favor of Michelor.

Therefore, he knew he had to create conciliation between his cold-warring executives. Along with that, he wanted to ensure that the authority and control over the unit remained with Michelor and not the Philippines government in any form. He decided to call in his CEO and COO for a final meeting. Here, he proposed a third solution for the issue at hand: Janssen would take over from Fromme as principal negotiator for the Philippines unit, while Fromme would

manage the others. The union negotiations would remain largely integrative as suggested by Janssen, while Fromme would come in for the hard tactics as the scenario required.

Ultimately, a re-worked union contract was negotiated upon, with Santos. Some of the terms included the following:

- Working hours would not be reduced, but overtime payment would be increased by 5–15 per cent, dependent on minimal overtime hours fulfilled per worker.
- Overtime would be paid weekly.
- The government would be communicated with on an issue-basis by Santos as required, but no middleman would be appointed on their behalf as long as any issue with the union was resolved peacefully within 3 months of beginning.
- The new agreement would be reviewed in 12 months' time for success in implementation and to convert into procedural protocol, if so.

Thus, Durand managed to negotiate clearly with his internal team and enable them to conciliate with the union on the sticky issues.

9.1 CONCILIATION

Conciliation is one of the methods of alternate dispute resolution that is used in conflict scenarios during negotiation. It is an alternative out-of-court resolution method that is deliberate, less rigid than legal recourse but still confidential. A third party or individual, known as a *conciliator*, works with each of the sides towards a resolution; he or she is the one who handles the entire proceedings. This consists of the conciliator going back and forth between the parties, discussing the issues, and negotiating or creating a mutually agreeable settlement. The parties involved in conciliation don't usually meet, and all the discussions are done via the conciliator. One major benefit of conciliation is that it is not legally binding, so the parties can negotiate till an overall beneficial outcome has been achieved.

Conciliation is an alternative out-of-court resolution method that is deliberate, less rigid than legal recourse but still confidential

The main process, which is considered one of the most effective, is this: the conciliator helps each party develop a list of all the potential aims and outcomes that they want from the conciliation, which is then prioritized. She/he, then goes back and forth and encourages each party to concede to differing extents on each of the aims, starting with the least important issue up to the most important. Since priorities on all objectives are not likely to be common for each party and they might also have aims that the other party does not, the conciliator is able to get them to concede and build trust. To be successful conciliators, people must also be highly skilled and experienced negotiators.

Conciliation is often used interchangeably with *mediation*, but there are some major differences. Firstly, conciliation is more formal than mediation, with the third party having

more authority here than in the latter. The conciliator is the one who develops and proposes a settlement. Secondly, conciliators are industry or field experts who are brought in for the sole purpose of reconciling issues and thus play a very direct role, while mediators are experts in communication and negotiation in general. Next, conciliators look for getting concessions from the disputants but mediators help each party formulate their side of the issues and conflicts towards a common outcome.

Conciliation and mediation are common in some ways: both the processes aim at managing existing relations between parties and bringing in trust and power balance that has been lost in conflict. However, conciliation is unlike arbitration, as it is much less adversarial. Other than the main fact that it is legally non-binding, it tries to pinpoint the best solution and includes the conciliator moving the parties towards a beneficial common agreement. In conciliation, the neutral party is usually seen as an authority figure that is responsible for establishing the best solution for the parties.

There is a well-known dispute case between the black and white farmers in USA, which happened during President Bill Clinton's tenure. The black farmers were deprived of few million dollars worth of subsidies, which were given to the white farmers. The black farmers filed a case. Due to the media publications, there appeared to be a rapid rise in resentment, hatred and enmity between the black and white farmers. The case was referred to Conciliation by the judges of the Supreme Court. Two conciliators, on behalf of the black and white farmers, worked together for a couple of months and as a result, created a win-win situation for both the parties. All the concerned representatives (Financial institutions, finance, etc.) took part in the conciliation process and reached an agreement and hence the dispute was resolved. All the parties were now satisfied and in consensus. Had the issue been taken to the Court, there would have been dire consequences and the relationship between the farmers would have further worsened, leading to the division of the country and various other political concerns. Conciliation thus helped the parties resolve the matter effectively and moved them towards a beneficial mutual agreement.

9.2 MEDIATION

As discussed in Chapter 7, mediation is a form of third-party, alternate dispute resolution that is used to resolve impasses across a range of scenarios: in businesses, families, and communities. According to Kolb (1983), it is the second oldest profession, having been around as long as conflict itself. Since it is not a legal recourse and involves all parties in coming to a decision, mediation is one of the most favored methods used across industries, traditional and modern such as malpractice cases, tort and liability claims, addiction-related cases, and so on. Mediation is considered an art as well as a science, with mediators who are trained, experienced and skilled, and who can bring confidence and trust into the situation being highly sought after.

According to Esser and Mariott (1995), there are three approaches that mediators can take:

- **Content mediation:** simply enabling parties to manage the trade-offs and reaching settlement
- **Issue identification:** enabling parties to prioritize their issues
- **Framing of issues:** helping parties in positively stating outcomes and desired settlements

Each of these approaches can be used in combination with one or more of the others. The manner in which the process occurs can also be of different types: the mediator may use *gradualism*, where issues are discussed in order of simple to complex; *boulder in the road*, where the most complex issues are discussed; and *committee strategy*, in which parties are divided into groups to discuss different issues.

Content mediation enables parties to manage the trade-offs and reaching settlement
Issue identification enables parties to prioritize their issues
Framing of issues helps parties in positively stating outcomes and desired settlements

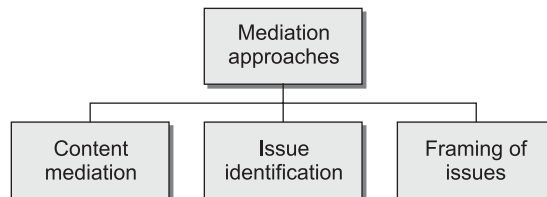


Figure 9.1 *Approaches of mediation*

A mediator thus plays some definite roles in the mediation process. These include the following:

- Being the one who sets the *ground rules*, such as time and venue, number and type of sessions, extent of public sharing of information, communication rules between parties, and so on.
- The mediator also plays the role of *ringmaster*, where she/he controls most of the proceedings. Decisions on whether sessions should be joint or separate, when parties must share their side of the dispute, being impartial and asking for defined issues, nominating a representative for each party, and so on are all part of this role.
- Being a *communicator* helps mediators make the ultimate decision without bias. Since the parties are in dispute, they may have issues communicating with each other without emotion or perception playing a major role.
- The mediator also acts as an *educator* to the parties, never directly making decisions but guiding disputants on how to get to a resolution through proposals, taking stock of positions and interests, and so on.

- The mediator must be an *innovator* through the process, where he uses different and new ways to resolve the dispute without actually making the decision by himself for the parties. It includes having constraint and tact that can lead to significant resolution.

Kressel *et al.*, have conducted research on mediation style and its influence, especially in divorce mediation, and found that there are two main types: a *settlement* orientation that involves a specific focus on coming to a resolution, and a *problem-solving* orientation where strict neutrality is not the aim and there is an attempt to actively resolve underlying issues. Kolb further specified two types of mediators: those who mainly use coordination, issue management and packaging known as the *deal makers*, and those who focus on sequencing communications between parties more than specific issues, known as the *orchestrators*.

Mediation's effectiveness depends on a range of elements, such as relationships between parties, parties and the mediators, the issues and the nature of the disputants. Moderate levels of conflict seem to be more easily resolved than situations that have reached an irrevocable level of stress or tension.

Jason (55) and Amy (52) were married for 24 years now. Their children, Robin and Julia, had started living independently in different cities. Jason and Amy's marriage had broken down. The couple was not clear about how to progress to sort out disputes including those related finance and pensions issues. After consulting a friend, they came to know about mediation and decided to call the mediation service.

Jason and Amy attended the information session and agreed to take up the mediation service. They decided not to take the legal advice. In the initial meeting with the mediator, he set an agenda to find out the way forward. Obtaining the financial income and pension information was critical before proceeding with the case. Hence, they took some legal advice and also planned to attend a second session with the complete details related to financial matters. To bring more clarity, an assets and income schedule was prepared and the future prospects were discussed.

Communications between Jason and Amy improved since they spent a lot of time with the mediator. The couple was also able to sort out various issues among themselves such as the joint properties they possessed, settlement of bank accounts, etc. They even agreed to share pensions in a way such that both of them can have long term security. Hence, mediation can help sort out disputes in an informal manner with quite lower costs as compared to the other legal methods.

9.3 ARBITRATION

Arbitration is different from mediation and conciliation in one major way: it is a legal method of resolving conflict. It is one of the most well-known and commonly used methods of third-party negotiation, especially in labor-related settings and commercial disputes, such as setting compensation for sportsmen.

There are different kinds of arbitration:

- *Voluntary* arbitration, where the parties go in for arbitration but do not have to compulsorily follow the outcome.

- *Binding* arbitration, where the parties are bound to comply with the decision by law or by agreement.
- *Issue-based* arbitration includes third parties managing either a single issue that is disputed by both sides or multiple issue arbitration, where an overall settlement is made.
- *Formal* arbitration is used when there is violation of legal agreements. In recent times, it is also being used for disputes related to technology or Internet.
- *Grievance* arbitration involves disputes related to existing contracts that might not have been followed.
- *Interest* arbitration is when a new contract has been given to an arbitrator since it cannot be negotiated as is.

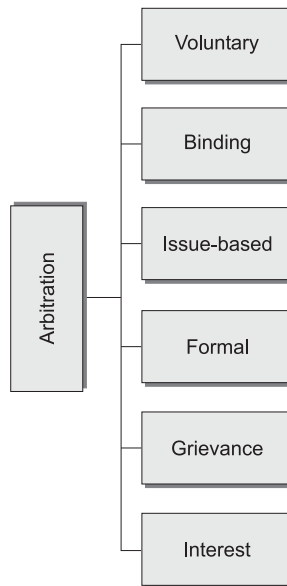


Figure 9.2 *Types of arbitration*

Final offer arbitration is a concept related to the flexibility that arbitrators have in the process. It can range from the third-party having full autonomy around the resolution process to them having limited choices and must decide from the resolutions laid out by the parties. Thus, instead of choosing to settle mid-way (or where it is best for all parties) the arbitrator must choose between resolutions given to them by the conflicting parties.

Disadvantages of Arbitration

While it is one of the most popular methods of dispute resolution globally, arbitration has some clear drawbacks. These are outlined below.

The chilling effect

This is related to final offer arbitration since it involves the third party choosing between two outcomes, parties are reluctant to make compromises that they might make otherwise, as they fear that the arbitrator might split the difference between the positions (Kochan, 1980). As such, sticking to an extreme outcome is better since the arbitrator might select that one.

Half-life effect

As the number of arbitration situations or the issues disputed increases, the perception that some of those are unfair or inadequate also increases. This is known as the half-life effect.

The bias effect

A bias can occur when arbitrators consistently make decisions in favor of one party. This could also be based on perception, since the decisions might actually be fair in their settlement. This can decrease the acceptability of the arbitrators and their decisions.

Narcotic effect

When there is a large amount of conflict, or when the parties are reluctant to go through with the process of negotiation as it is lengthy and might not have a solution, they might simply decide to go with arbitration. This lack of initiative and dependence on arbitrators is known as the narcotic effect. This is similar to surface (half-hearted) bargaining.

Decision-acceptance

When the decision of arbitration is not fully committed to, it is known as the decision acceptance effect. Research (Vroom, 1973) has shown that involvement in decision-making has significant impact on commitment of the group to the final decision, rather than when it is made by a single member. Arbitration, by nature involves a third party making the decision.

Table 9.1 Differences between conciliation, mediation, and arbitration

	Conciliation	Mediation	Arbitration
Formality	Informal	Informal	Formal
Costs	Low	Low	High
Confidentiality	Limited	Absolute	Private
Duration	Days	Days	Months
Risk to relationships	Low	Low	High
Focus	Past, present and future	Past, present and future	Past
Success	Win-win/win-lose	Win-win	Win-lose
Parties decide outcome	Yes	Yes	No

9.4 COLLECTIVE BARGAINING

Collective bargaining is defined as the negotiations between an employer and a group of employees that determine the conditions of employment. It is a tool used for managing industrial, large-scale relationships, such as between companies and unions. It can be of two types: one where there is one employer and the union representing many employees; or when there is more than one party on each side—multiple employees and employers on the negotiating table.

Collective bargaining is defined as the negotiations between an employer and a group of employees that determine the conditions of employment

Collective bargaining is thus a process of negotiation that aims to settle matters such as working salary regulation, overtime, number of hours, training methods, health and safety, grievances, and so on. Collective bargaining may also occur between an employer and a group of employees when specific issues arise. When the union negotiates with a single employer, the latter usually represents the company stakeholders. When it negotiates with a group of companies, it usually results in a much larger, industry-wide agreement that may even function as labor regulations. The outcome of this type of negotiation is known as a *collective bargaining agreement (CBA)* or *collective employment agreement (CEA)*. These agreements may be in the form of procedural or substantive agreements. *Procedural* agreements refer to the relationship between workers and company management as well as the procedures to be used for resolving any disputes. This includes procedures for issues such as individual grievances and overall discipline. At times, procedural agreements are converted into company rules that then define the terms and conditions of employment and codes of behavior. *Substantive* agreements are related to specific issues such as wages, bonuses, holidays and so on.

Agreements made via collective bargaining are usually time-bound; i.e., they are reviewed after a certain period and negotiations may be taken up again to deal with any new or unresolved issues, as well as to take into consideration changes in circumstances or other factors.

The collective bargaining process comprises of five core steps.

1. **Preparation:** The negotiation team is created; it consists of skilled and experienced representatives of both parties. Once formed, each party examines their own situation to formulate priorities in terms of issues, as well as the actual reason behind the negotiation.
2. **Discussion:** Here, parties decide on guidelines and ground rules.
3. **Proposing:** This step can also be described as *brainstorming*, where communication and interaction is crucial to get to resolution options.
4. **Bargaining:** This is where the actual back and forth negotiations, drafting of agreements and all their specifics occur.
5. **Settlement:** This consists of agreeing upon issues as well as implementation of the agreement through action steps.

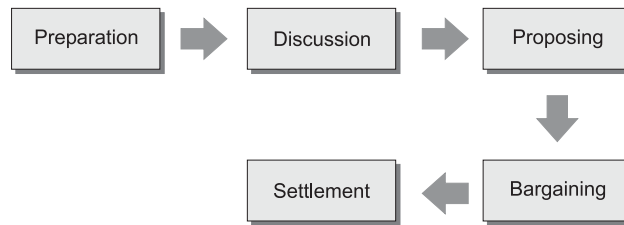


Figure 9.3 Collective bargaining process

There are some basic rules to be followed in collective bargaining process: *Mandatory subjects* of bargaining must be negotiated over by the employers exclusively with the representatives of the employees. However, this is not true of *permissive subjects* of bargaining. Mandatory subjects include basics like salaries, working hours and so on, while permissive subjects include issues like retirement benefits. Further, while it is not required that both parties reach an agreement, they are expected to negotiate in good faith on the mandatory subjects until they are resolved. If this has not taken place, then the employer is not allowed to change any of the terms of employment while negotiations are on.

Collective bargaining can be of various sub-types, some of which are described below.

1. **Conjunctive:** This is the same as distributive or zero-sum negotiations.
2. **Co-operative:** Like integrative bargaining, parties here try to resolve conflict through mutually beneficial outcomes.
3. **Productivity:** In this type of collective bargaining, a productivity-related system is to be negotiated on by both parties using certain common elements.
4. **Composite:** This goes beyond productivity bargaining to ensure that workers are not overworked by negotiations on workload, hazards, work norms, and so on.
5. **Concessionary:** This occurs when the unions allow concessions to employers in case of financial crises, recession or other such factors. Concessions may be on leave, pay, work timings, and many other elements. This type of collective bargaining can only take place when there is a large amount of trust and credibility on both sides

Conjunctive collective bargaining is the same as distributive or zero-sum negotiations

Co-operative collective bargaining is like integrative bargaining, parties here try to resolve conflict through mutually beneficial outcomes

Productivity collective bargaining is where a productivity-related system is to be negotiated on by both parties using certain common elements

Composite collective bargaining goes beyond productivity bargaining to ensure that workers are not overworked by negotiations on workload, hazards, work norms and so on

Concessionary collective bargaining occurs when the unions allow concessions to employers in case of financial crises, recession or other such factors.

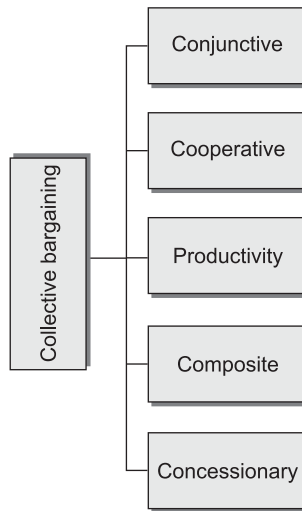


Figure 9.4 *Types of collective bargaining*

9.5 QUALITIES OF A MEDIATOR

A mediator is the go-between, the neutral third-party, who ultimately resolves conflict between warring sides. As such, mediators are required to have certain qualities or traits that enable them to do this effectively.

Trustworthiness and Credibility

One can only work as a mediator as long as he or she has the trust of all parties. Although a mediator usually follows a structured process, there is usually no major record of what transpires with each party in utter confidence. The mediators' main objective is to discover the real interest of the parties, which occurs only when they have complete faith in them and their interests. Further, the mediator must provide an accurate idea of capabilities through his behavior and communication. He must be consistent as well as able to articulate complex situations and concepts for dispute resolution.

Neutrality and Control

This consists of the behavior of the mediator towards parties such that their faith is maintained. Objectivity or neutrality is the most significant part of mediation; the mediator must have the capacity to be completely objective in evaluating the information obtained and moving towards resolution, regardless of the behavior and reactions that he witnesses in the sessions. He must also have self-control to avoid showing reactions of anger, irritation, sympathy, or

fatigue even when they are present, and ensure that he is not emotionally invested in any party.

Law-abiding Behavior

While mediators have the authority to proceed and resolve disputes between parties, it must be done without going against the law, public policy, or established reasonable procedures. He is required to mediate with the full knowledge that the decisions he enables the parties to arrive at can be challenged legally, if it goes against any of these or is ineffective.

Initiative

Achieving and maintaining initiative are essential throughout all mediation phases. In conflict and negative situations, it is the mediator who must spur parties to do the needful and create direction and a resolution pathway for them.

Alertness

The mediator needs to be alert on various levels while mediating. He must pay attention to the information being shared as well as its value and authenticity. He must be alert to changes in body language or style of communication by parties to evaluate whether the process is working. He must also be conscious to the overall environment around him for the sake of security and success of mediation.

Patience and Tact

The mediator must work with patience as well as tact when creating and maintaining a relationship between himself and the parties. There is usually some amount of negativity and conflict when parties engage in mediation. Further, it is through patience that a mediator will be able to draw out underlying issues and real interests of the parties, unlike in legal situations.

Adaptability

Mediators, often being in the volatile situations that they are in, must know how to adapt to the varied personalities and circumstances, locations, procedures and operational environments. Being adaptable and empathic will enable them to use approaches and techniques based on the situation and therefore more effectively.

Perseverance

Mediators who excel at their job are also the ones who are tenacious. Managing resistance, non-cooperation, volatility, hostility and other issues can allow them to extract valuable information and successfully handle all stages of mediation till the end.

Appearance and Demeanor

A mediator's personal appearance and behavior often influences the setting and the parties' attitude. Showing traits of fairness, strength, and efficiency are important in these kinds of negotiations.

Summary

Third-party resolution occurs when parties involved in the negotiation do not or cannot come to a mutual agreement. There are many well-established methods of doing this, including conciliation, mediation, and arbitration. While the first two methods overlap in many ways, the third one, arbitration, is a purely legal recourse used in high-conflict business or labor negotiations. Another approach that is utilized when there are large groups of employees is known as collective bargaining, where one or more parties of employers negotiate with employee groups or unions on working matters like salary and overtime hours. Collective bargaining can be of various types, such as co-operative, concessionary or conjunctive, depending on the issues and parties involved. As a third party, a mediator is thus an important figure in conflict resolution; there are a number of traits or qualities that one needs to have or develop to succeed in this role.

Discussion Case

Jack Torrance was rudely woken up by his bedside phone at 4 am, one winter morning in 1994. It was the president of the USA. There was grave news. Radical terrorists belonging to the ABC movement had taken over an embassy at Queen's Gate, London. Of the 26 hostages taken, 14 were US diplomats and citizens. Jack rubbed the sleep out of his eyes and got ready hastily; he was to be the principal negotiator owing to his extensive experience in hostage negotiation scenarios and would be flying out to London within the next half hour. A car with a secret service agent was waiting for him outside his apartment and they gunned it to the airport. During the ride he was briefed about the situation. The terrorists were demanding the release of four of their leaders, who had masterminded bombings all across London and were on death row. However, the British Prime Minister was unwilling to negotiate and was prepping the SAS, Britain's Counter Terrorism Special Forces, to storm the building from all sides and attack the terrorists. The attack was to happen the next day. Meanwhile, British negotiators were stalling the terrorists.

The building that the hostages were being held in was a maze of offices and would be very difficult for the Special Forces to navigate, given that they'd be under heavy gun fire. They had little-to-no information about the number of terrorists, their positions and armament. The only reliable information was that the leader of the group was a man named John Pirelli and he wanted a direct line with the Prime Minister. He also wanted air time and for the BBC to broadcast the negotiations live. After being briefed, Jack got on phone with his British counterparts (they had already been told that an American negotiator was on his way) and

asked them if it was possible to give Pirelli some of his demands, at least for the time being. In the classic stoic British way, they declined and told him that they'd never negotiate with terrorists. Jack also got the feeling that he wasn't exactly welcome amongst the Brits, who probably thought that Jack was undermining their position.

By the time Jack arrived on scene, the SAS team had already set up base in a nearby building and were to go in 9 hours. The Prime Minister had declined every single one of Pirelli's demands and had only given the terrorists some food, water and medical supplies for the hostages. As Jack was being briefed by his grumbling British counter parts, a loud gun shot was heard and the entire place broke into chaos. One of the hostages had been shot as a warning and Pirelli announced to the negotiators that for every two hours that his demands were not met, one more hostage would be executed. Jack realized that the situation just turned into a ticking time-bomb and that he'd have to play the role of the mediator. His first order of things was to establish his authority over his British counterparts and then to stall the terrorists till some more information could be gathered.

Points to Ponder on

- Similar high pressure negotiation situations have been faced by people time and time again, how would you proceed, were you in Jack's situation?
- What qualities would Jack have to exhibit in order to mediate the situation and bring about a peaceful conclusion?
- The SAS teams that will be storming the building can be successful if they had access to more information. How can Jack, as the principal negotiator, use his unique position to get more information from the inside?
- What sort of steps would he have to take, were he to satisfy the demands of all involved parties? (The British PM, the American PM, to an extent – The terrorists, and ensure the safe release of the hostages)
- If you want to see a similar situation successfully handled, look up 'Operation Nimrod: SAS assault at Prince's Gate' on Google.

Activity

This is a simple buyer–seller game. The class is divided into pairs: one person in the pair becomes a buyer and the second person becomes a seller.

Notes for Seller

The Mysta Car is three years old. The new car of the same model is priced at ₹ 10 lakh. When you bought the car, the latest model was priced ₹ 8.5 lakh. This increase in the price is due to inflation and also due to the demand of this car in the re-sale market due to its low maintenance costs. You contacted the company's true value store and they offered you two

prices: ₹ 4.5 lakh, if you buy the new car of the same brand, and ₹ 4 lakh, if you just sell them this car and buy a car of some other brand. You have researched the market and realized that your car could sell for around ₹ 5.5–6 lakh, if sold directly to the buyer. You do know that buyers are skeptical in dealing directly as they are not sure of the quality of parts. But you can get a quality assurance certificate from your car company. Though this may cost you ₹ 25,000.

Notes for Buyer

You want to buy a Mysta Car, which is about 3-4 years old. You visited the company's re-sale showroom and got a quote of ₹ 6–6.25 lakh. Your friend who has a good knowledge of car market has suggested you to buy directly from a seller, as it would cost you at least 10–15 per cent cheaper than the company's re-sale showroom. You have recently got to know that a seller wants to sell a Mysta car. The car is in good condition. You want to crack a profitable deal, as owning a Mysta is your dream.

Exercises

1. Multiple Choice Questions

- i. Interest arbitration is common in the public sector, where employees are generally prohibited from
 - a. conducting elections
 - b. bargaining
 - c. litigation
 - d. striking
- ii. Which of the following is a probable outcome of a collective bargaining relationship?
 - a. Substantive rules that determine the exchange of effort for rewards, such as pay and hours of work.
 - b. Rules based on informal dialogue between line managers and shop stewards at workplace level.
 - c. Procedural agreements that determine the machinery for current and future bargaining arrangements.
 - d. All of these
- iii. Are employers indebted to provide data to trade union representatives for collective bargaining purposes?
 - a. No, because it would be unfair on the employer in the negotiations
 - b. No, as there might be a lot of confidential information included, which the proprietor might not wish to disclose
 - c. Yes, if this information needs to be carried on collective bargaining.
 - d. Yes, but only if the union representatives decide to keep it underground.

2. Fill in the Blanks

- i. Mediation process is ____ and the parties are the ____ participants.
 - a. formal, active
 - b. formal, inactive
 - c. informal, active
 - d. informal, inactive
- ii. In ____ negotiation, all the parties seek to maximize their gain while in ____ negotiation, the parties look for joint gain.
 - a. conciliated, mediated
 - b. mediated, arbitrated
 - c. adversarial, Problem-solving
 - d. collaborative, arbitrated
- iii. Situation in which workers carry signs to depict their concerns near employer's business place is classified as ____ while an employer's refusal to provide opportunities for work is known as a(n) _____.
 - a. strike, injunction
 - b. picketing, lock out
 - c. impasse boycott, strike procedure
 - d. boycott, grievance procedure

3. True or False

- i. "Med-arb" is a dispute resolution process in which the parties begin in mediation and proceed to arbitration if the mediation is unsuccessful.
- ii. Disputes are resolved in the process of mediation through consensual interaction between the disputants.
- iii. Conciliation and Mediation processes are distinguishable from Arbitration as the parties' willingness to submit to mediation or conciliation does not bind them to accept the recommendation of the conciliation or mediator but an arbitrator's award, by contrast, is binding on the parties.
- iv. The process of arbitration is more privatized than judicial settlement and conciliation is more privatized than arbitration.
- v. The process of mediation is adjudicatory and directive whereas that of arbitration is negotiable and collaborative.
- vi. Lack of initiative and dependence on arbitrators is known as the chilling effect
- vii. Grievance arbitration resolves disputes which involve an existing agreement rather than a new one
- viii. Unlike a mediator, a 'conciliator' can make proposals for settlement and 'formulate' or 'reformulate' the terms of a possible settlement

4. Match the following

i.

a. Collective bargaining coverage	1. Defines issues that are prohibited, permissive or mandatory subjects of bargaining.
b. Bargaining unit	2. The proportion of employees in the economy as a whole whose pay is influenced by collective bargaining.
c. Composite bargaining	3. The group of employees on whose behalf a collective agreement is negotiated.
d. Scope of bargaining	4. Demand of equity in matters relating to work norms, employment levels, manning standards etc.

ANSWER KEY

- | | | | | |
|--------------------------|------------|-----------------------------------|----------|----------|
| 1. i. d | ii. d | iii. c (under Section 181 TULCRA) | | |
| 2. i. c | ii. c | iii. b | | |
| 3. i. true | ii. true | iii. true | iv. true | v. false |
| vi. false | vii. false | viii. false | | |
| 4. i. a-2, b-3, c-4, d-1 | | | | |

Exhibit 9.1**Checklist for Collective Bargaining**

HHL, an automobile company manufacturing two-wheelers witnessed a massive strike, when 4000 contractual workers stopped work and indulged in sporadic violence to get their demands met. The number of contract workers exceeded that of the workers on roll; this and the huge difference in their salaries were the primary reasons for the workers to go on strike. The demands included regularization, steep increase in the wages, health benefits, increased leaves, and other amenities, which were available only to permanent employees. While the management was sympathetic to some of these demands, they were miffed by the display of violence, which included roughing up of some of the senior officers of HHL. HHL decided to bring in a professional negotiator to represent them in their negotiation with the contract workers. After a marathon negotiation that lasted 52 hours, an agreement was reached. The checklist that the professional negotiator used included the following:

- ☐ Be empathetic: Remember that the person or people sitting across from you are human beings with a different vantage point and different needs. Do not confuse who they are with what they do. Do not see them as people out to destroy you and the groups you represent. When dealing with others at the negotiation table, ensure that you always treat them with respect and dignity. Do not engage in the very behaviors that you are condemning the other side for.

- ❑ Communicate openly and with compassion: Speaking honestly about what you can concede and what you cannot, using a mix of logic and emotions, will help ensure you to get your point across as well as reduce the ambiguity you inject into your message. Speaking openly also shows respect for others.
- ❑ Evaluate the commitment of your side: Remember that collective bargaining is an iterative process where both groups move towards the point of agreement slowly. However, until that point is reached, a high number of proposed solutions might be put forward, which some members on your team might not agree with. Make sure that you have the commitment of your team. Also, don't assume that everyone on your team is playing for the purpose you think they are; some might be playing for the opposite team as well.
- ❑ Understand the laws: It is important for both the union and employer to understand the labor laws, both at the National and State level (for instance, in India, Labor is a subject matter of the Concurrent list, and thus both states and the union can make laws pertaining to labor). The most important of them is the Industrial Disputes Act 1947, which specifies the machinery for handling industrial disputes, outlines the conditions for a strike to be considered legal and justified and also exhorts to eliminate certain practices referred to as "unfair labor practices".
- ❑ Build the relationship: Since employees have decided to unionize, the relationship with the employer may be under stress. However, understand that conflicts can also be productive if used to question tasks and processes. Focus your energy on building a relationship with the union officials and popular people among the workers, even though they may not hold any official post. Reflective listening is vital to building rapport.
- ❑ Find out their real needs (often not vocalized upfront): Try and see beyond their posturing and analyze the legitimate objectives or concerns the union might have. For example, are the wages fair? Is overtime compensated fairly? Do the workers have a legitimate opportunity for promotion? Do the workers have a reasonable opportunity for training? Are there any individual goals of the union negotiation team that need to be considered?
- ❑ Open different channels of communication: Use a mix of formal negotiations, breakout sessions and back-door communications. If you reach a stalemate, go to breakout and try talking to some of the people on the other side that appeared to be more reasonable. Rework, modify and go back with alternative proposals, keeping your ultimate needs in mind. Make sure your colleagues and other team members are available at quick notice to provide information.
- ❑ Compile & familiarize yourself with all the data: Getting all the documents and data organized is extremely important. Ensure that you have an accurate and in-depth breakdown of all your labor costs—accounting for things like hours (including OT), benefit costs (sorted by each benefit), and finally, a timeline that shows how your labor level as well as costs have trended over an extended period of time. Having sorted out objective data that you're already familiar with and can use for quick reference will allow you to make quick decisions in terms of asking or giving concessions during the negotiation process.

- ☐ Examine past dealings with the union: Read up on the history of your company's previous dealings with the union. Also, talk to some people who may have negotiated with this union or some particular union member before. This is usually a pretty good indicator of the strategy the other side is going to use once again. For instance, the union is likely to repeat a push for some of the things that were not conceded in the previous negotiations.
- ☐ Have backup plans: Prepare for the possibility that you might not be able to reach a resolution with the labor union as soon as you would like or the negotiations might break down. It is important that you have a contingency plan in place—assuring that your business is able to continue to operate without disruption until you're ultimately able to reach an agreement with the other side.

Exhibit 9.2

Mediation Guide

- ☐ Create a conducive setting.
- ☐ Greet the parties warmly.
- ☐ Indicate where each of them is to sit (try to have the seating arrangement in a L or a U-shape, rather than opposite ends).
- ☐ Introduce yourself to each party and introduce them to each other.
- ☐ Offer water, paper and pencil, and patience.
- ☐ State the purpose of mediation.
- ☐ Confirm your neutrality.
- ☐ Get their commitment to proceed.
- ☐ Get their commitment that only one party at a time will speak.
- ☐ Get their commitment to speak directly to you and not to each other.
- ☐ Help the parties communicate.
- ☐ Explain the rationale for who speaks first and get them to agree with your decision.
- ☐ Reassure them that both of them will speak without interruption for as long as necessary.
- ☐ Ask the first party to present their point of view.
- ☐ Take notes and seek clarification wherever required.
- ☐ Respond actively; restate and paraphrase what is said.
- ☐ Clarify, with open or closed-ended questions, or with restatements.
- ☐ Focus the narration on the issues in the dispute.
- ☐ Summarize, eliminating all disparaging statements.
- ☐ Check once more to see that you understand the story.
- ☐ Thank this party for speaking, the other for listening quietly.
- ☐ Ask the second party to present their point of view.

- ☐ Inquire about basic issues with probing questions to see if something else might be the root of the complaints.
- ☐ Define the problem by restating and summarizing.
- ☐ Conduct private meetings, if needed (explain what will happen during and after the meetings).
- ☐ Summarize areas of agreement and disagreement.
- ☐ Help the parties set priorities on the issues and demands.
- ☐ Help the parties negotiate.
- ☐ Ask each party to list possible alternatives and counterproposals for a settlement.
- ☐ Restate and summarize each alternative and counterproposal.
- ☐ Check with each party on the workability of each alternative.
- ☐ In an impasse, suggest the general form of other alternatives.
- ☐ Try bundling some alternatives together to create new sets of alternatives:
 - ◆ If the impasse continues, suggest a break or a second mediation session.
 - ◆ Encourage them to select the alternative that appears to be workable.
 - ◆ Increase their understanding by rephrasing and bundling the alternatives.
 - ◆ Help them plan a course of action to implement the alternative.
- ☐ Clarify the settlement.
- ☐ Summarize the agreement terms.
- ☐ Recheck with each party to ensure that they understand the agreement.
- ☐ Ask whether other issues need to be discussed.
- ☐ Help them specify the terms of their agreement.
- ☐ State each party's role in the agreement.
- ☐ Recheck with each party on when they are to do certain things, where, and how.
 - ◆ Explain the process of follow up.
 - ◆ Establish a time for follow up with each party.
 - ◆ Emphasize that the agreement is theirs, not yours.
 - ◆ Congratulate the parties on their reasonableness and on the workability of their resolution.
 - ◆ Document the agreement with its contingency clauses and get it signed by both the parties.



Influence of Culture and Gender on Negotiations

Learning Objectives

After studying this chapter, you will be able to

- Understand what is culture and how it impacts negotiations
- Interpret the impact of norms and values on negotiations
- Assess the gender differences in negotiation

GENDER AND NEGOTIATION

Naina Shetty owns a multi-million dollar travel and adventure gear company, Shikani Global. A self-made woman, she had worked for a decade to build a large, well-known, and bold brand that catered to the needs and whims of travelers and adrenalin geeks across the world. Headquartered in Bangalore, it was ranked second in the industry, and had a team of about 140 employees—young, passionate adventure-lovers. While Naina was the founder and MD, and her brother, Vasant was the CEO. The siblings made a good team, playing off each other's strengths in partnerships and deals and bringing a team spirit that helped them lead by example.

The CEO of Nexter, their direct competitor in the market, directly approached Naina, for a merger. Nexter was an older company that had been around for almost 15 years, and was bigger, almost double the size of Shikani. Naina and Vasant had known the board of directors for years. A merger in this case was not a bad idea by most corporate standards, but Naina was not of normal stock. She refused, since her ambition was to make her own firm and its identity even bigger.

What ensued was a hostile reaction. Nexter, desperately wanting the merger to go through, began poaching Shikani's employees aggressively. Pay was doubled, juniors who joined were given quick promotions, and even the management team was not spared. Shikani lost almost a third of its members in less than a year, which hit business hard. While their HR team was working overtime to recruit people, training them and competing with Nexter—which had the capacity to absorb a much larger number of people—was becoming an obstacle of its own in the company's progress.

Not all those lured by Nexter left, however. One such person was Zeus Pereira, a hard-nosed Harvard MBA graduate, who had joined as Shikani's new Business Director. After taking stock of their losses, Naina, Vasant and Zeus decided to begin negotiations with Nexter, to see what it was they had to offer. They knew, all of them, what their response was to the idea of a merger, but they believed that opening negotiations could and would not make things worse.

Vasant and Zeus represented the company in the negotiations. They went in hardline, accusing Nexter of poaching straight out and threatening to do the same. Nexter did not budge from their stance though; they were of the opinion that a merger would be perfect for the company in spite of the hostile relationship at the moment. They even threw hints of a foreign takeover of Shikani that would hurt the latter more. They believed merging both the companies was a good move to stop that from happening to either one of them as well as to consolidate their position in the fast moving industry.

Naina, however, stood fast. She allowed Vasant and Zeus to continue the negotiations to ensure that the poaching stopped, while she began her own research on international firms that might be interested in a takeover, as suggested by Nexter. Vasant and Zeus, being aggressive negotiators, managed to bargain and settle with Nexter on a few key issues, but the negotiations remained in hostile-to-neutral territory. It was not an optimal scenario for Shikani, being the smaller firm. At some point, discussions were bound to fall through. That is when Naina brought her collaborative skills to the fore. She asked Nexter to give the deal one year to go through. Shikani would in that time, strengthen their links with the firm towards a merger.

In actuality, however, Naina was talking to various other firms who were better suited for mergers with Shikani. One such firm, Singapore-based Luthere Inc., showed much promise and inclination for these talks. Naina represented the negotiations and over the next ten months, worked patiently with the team at Luthere to figure out the issues, challenges and possibilities of a merger with them. She bargained for the position of a Director for her brother and Zeus, along with others from her management team, while she would be the new company's COO. She also agreed to be their cultural partner in international affairs.

As the year drew to a close, Shikani's team worked hard under Naina's guidance to create a positive path for the new merger. No word of this was given out to the industry or media. In fact, Nexter was still under the impression that once the timeline passed, negotiations on their takeover of Shikani would begin. When news of Luthere's merger rolled in, the management was livid. However, there was nothing to be done; the newly formed company was much

larger than them, and now the biggest in the industry in the APAC region. Naina's patience and collaboration had paid off; not only did she avoid an aggressive hit on her company with subtlety, but also managed to partner with an even bigger firm into a more beneficial outcome.

10.1 WHAT IS CULTURE?

Culture is the collection of norms, values, customs and ideas of a particular group of people along with the social, economic, religious and political institutions that are part of daily life. Culture is a complex, layered construct that enables people to behave, communicate and function in a certain way. It has many noticeable as well as deeply embedded elements that can only be understood on spending time in studying / observing the culture. It is learned and shapes life to a large extent for its members, allowing them to interpret it in a personal manner to a certain extent.

Culture is the collection of norms, values, customs and ideas of a particular group of people along with the social, economic, religious and political institutions that are part of daily life.

As such, culture is one of the dominant factors that affect negotiation, like almost all other interaction between people. Some of the characteristics of culture that may individually influence negotiation include:

- **Self-identity:** This includes an identification of oneself with the culture; it could range from extreme independence to larger interdependence.
- **Communication patterns:** Language, dialects, non-verbal cues, colloquialisms and slang are all part of culture.
- **Relationships:** Cultures influence relationships at all levels, and negotiation relations are a part of this.
- **Time and time-consciousness:** Time is viewed as linear and sequential in some cultures and as a cycle in others.
- **Mental processes:** How each culture values and allows for mental processes and their learning will influence the manner in which negotiations are carried out.
- **Norms and values:** These influence the judgment systems and behaviors of all individuals and can affect their negotiations

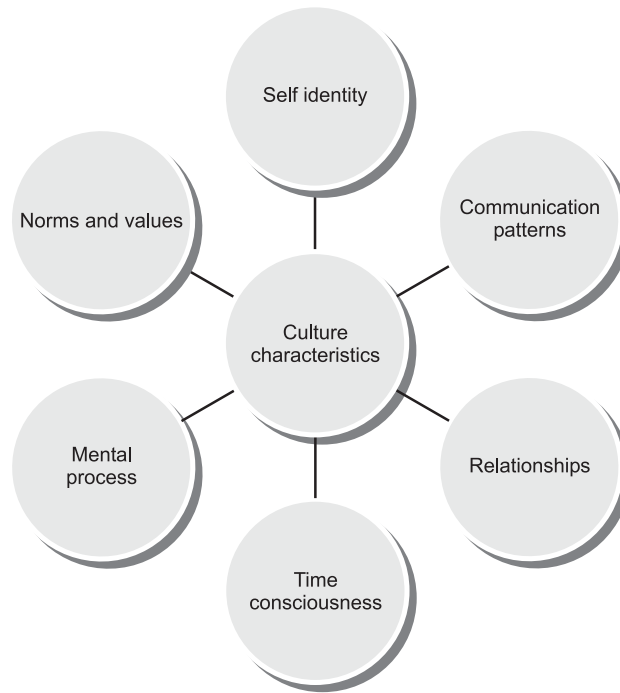


Figure 10.1 Characteristics of culture

Research conducted by Hofstede and Bond throws up five cultural factors that are crucial in determining negotiation style.

1. Individualism vs. collectivism

This construct is based on the extent to which a culture focuses on individual achievement, interaction and relationships. Individualistic cultures favor a person's rights and achievements above a group's; the identity is based more on the individual himself. A collectivist society, on the other hand, indicates preference for close-knit social networks or in groups, where loyalty and group behavior is very important. Order, duty and security are significant values here and there is emphasis on the context of all interaction.

The cultural construct of Individualism vs collectivism is based on the extent to which a culture focuses on individual achievement, interaction and relationships.

USA, for instance, would consider and reward individual achievements, while in Japan, the collective good would take precedence over the individual performance or rewards.

2. Power distance

This construct refers to the degree of inequality in a culture. A high power distance means there is a large gap in terms of wealth and power between people in the same culture that

The cultural construct of Power distance refers to the degree of inequality in a culture.

affects the culture in terms of “correct” behavior. Negotiators from such cultures (like Japan) are comfortable with hierarchy, authority figures and use of power in negotiation. Those from more equal cultures, such as USA, are more attuned to democratic styles of negotiation, flat hierarchies and less use of authority and power.

For instance, the Japanese corporate hierarchy system is based largely on seniority apart from merit, while in the USA, age may not be a consideration in determining position and authority. In Japan, a person is likely to be 45-year old or more to be the Department Chief (buccho), while a person as young as 30 (or even less) could be one in the USA.

3. Uncertainty avoidance

This refers to the tolerance for uncertainty or ambiguity in a culture in unstructured contexts. High levels of avoidance mean that there is low tolerance for ambiguity; such cultures are more rule-oriented, change-resistant, and risk-averse.

The cultural construct of Uncertainty avoidance refers to the tolerance for uncertainty or ambiguity in a culture in unstructured contexts.

For example, Germany has a high uncertainty avoidance score (65) as compared to say Denmark (23). This essentially means that Germans like to plan everything carefully to avoid uncertainties, and thus are likely to be more organized and law abiding. Danes, on the other hand, may be comfortable with unplanned and uncertain situations.

4. Masculinity and femininity

This dimension focuses on the extent to which a culture reinforces masculine traits such as assertiveness. A high ranking on this dimension means that the society values achievement and power and has a high degree of gender distinctions. For example, in such cultures, women are expected to be nurturing while men are expected to be aggressive and “masculine”.

The cultural construct of Masculinity and femininity focuses on the extent to which a culture reinforces masculine traits such as assertiveness.

Countries that are high on masculinity include Japan, USA, and Arab countries, while those that score high on femininity include Thailand, France, and Sweden.

5. Long-term orientation

This dimension refers to the Confucian values of forward-thinking and tradition. A high ranking here indicates that the culture places importance on respecting commitments and staying true to tradition. As such, it looks at future gain rather than immediate reward.

The cultural construct of Long-term orientation refers to the Confucian values of forward thinking and tradition.

Countries scoring high on long-term orientation include China, Hong Kong, and Korea.



Figure 10.2 Dimensions of culture

10.2 NORMS AND VALUES

Multilateral negotiations, such as those between more than two distinct cultures or nations, are heavily influenced by cultural factors such as each party's norms and values. Massive negotiations in international contexts often make use of agents, mediators or tacticians, who are cultural negotiation experts and can ensure elimination or at least reduction of discord due to cultural differences, in the setting. Hall (1976) theorized two kinds of cultures: *high context* and *low context*. High context cultures are the ones where the context of the negotiation is important and plays a role in the outcome. Collectivist cultures in countries like China or Japan are high context. Low context cultures are more individualistic where the context is not as important a factor in the negotiation outcome. The norms, values and behaviors of each differ in many ways that can impact a negotiation drastically, especially in multilateral, international setting or disputes.

Table 10.1 *Differences between high context and low context cultures*

High context	Low Context
Norms are based on concern for others, inclusion and obligatory behavior.	Norms are based on self-expression and autonomy.
Communication is more avoidant and collaborative.	Communication is straightforward and separates problems from people.
Behavioral norms tend to be around face-saving, relationship-sensitive, expressive, inclusive and systematically interrelated.	Behavioral norms are around self-disclosure, confrontation and competition and problem solving conflict resolution styles.
Conflict may occur in private but resolution is usually made public, or in public. Settlements can be accompanied by ritual.	Negotiation and settlement are devoid of ceremony and may be conducted in private.
The group or the culture defines the methods of resolution.	Face-to-face interaction is preferred and those involved in the negotiation influence the resolution.
Parties prefer preventative measures and intermediaries instead of courts; the last option is considered a failure of negotiation.	Legal recourse is more frequently taken in conflict management or settlement.

Collectivist cultures also react to uncertainty and dispute differently from individualistic ones. Cultures in nations like Japan, France, and Russia have a larger need to control uncertainties than others, like Sweden or England. Further, in terms of contracts and written agreements, western cultures are more formal and specific while collectivist, Eastern ones may be less so.

10.3 NEGOTIATION ISSUES SENSITIVE TO CULTURE

10.3.1 Heuristics and Biases

According to the *rational choice theory*, negotiators gather information, evaluate it, compare the pros and cons and then make a decision that is rational and leads to a beneficial agreement. However, in daily practice, this theory might not work since negotiators have normal human tendencies—they may not have the ability, time or willingness to act *rationally*. When they use heuristics (rules of thumb) during decision-making in culturally uncertain situations, certain biases may crop up and influence the outcome. These biases can be *cognitive*, such as those based on numerical judgments—anchoring, framing or insufficient adjustment. Morris and Gelfand have stated that biases can be learned or perceived, with the former being influenced largely by culture. Learned biases include overconfidence or self-serving evaluations. The *egocentric* bias occurs when individualistic societies lead to people seeing themselves as fairer

that others. The *availability* bias occurs when the negotiators have the knowledge to make a rational decision but it is not available to them for various cultural reasons. *Stereotyping* occurs when negotiators use some degree of similarity of one event or category to make assumptions about larger events. All of these are easy to use in negotiation but do not further goals in reality.

10.3.2 Pattern of Negotiation

Negotiation follows a particular pattern, where tactics combine to form a strategy and strategies are used in different ways to get a desired outcome. There are three main parts: *strategic approach of the party*; the *sequence of tactics*; and the *process flow*, all of which can be affected by cultural differences.

In the strategic approach, whether the negotiator focuses on individual gain or joint benefit comes across directly. Different cultures use distributive and integrative approaches in distinct ways and at distinct times in the negotiation.

In the sequence of tactics, the frequency with which integrative or distributive tactics are used is significant. The sequence can follow a reciprocal or non-reciprocal pattern, and cultural differences may cause parties to not respond in an expected or predicted manner to the tactics.

Process flow includes the timing and intensity of the overall negotiation. According to Adair and Brett, while all parties use competitive and collaborative strategies at some point in a negotiation, the behaviors displayed by different cultures for competition and collaboration can be vastly different.

10.3.3 Emotions

While decision-making in negotiation is expected to be a rational process, the emotions of the negotiators and parties in general do play a role, especially in cross-cultural settings. Emotions play a predictive role in negotiations; according to studies conducted; initial positive moods have been found to result in more joint gains and fewer controversial tactics and vice versa. Emotions can also cause reciprocal or complimentary reactions from the other party. In cross-cultural settings, understanding and responding to emotions may be tougher due to the cultural distinctions involved. Culture distance usually reduces the negotiators' sense of control, creating more uncertainty that is usual, which can lead to heightened emotions. Further, emotions are also a consequence of negotiations, not just a cause in the setting. Experts have categorized negotiation-related emotions into two major groups: those with *promotion focus* and those with *prevention focus*. A promotion focus occurs when parties are more concerned with the presence or absence of positive outcomes, and a prevention focus occurs when a negotiator is focusing on the presence or absence of negative outcomes. Emotions can also be *ego-focused* (anger, pride, etc.) or *other-focused* (shame, anxiety, etc.)

For instance, while in the USA, France, or Italy, it is expected to open a gift in the presence of a giver, it is not expected in countries like India and Japan. In fact, in Japan, it is even more uncomfortable if the receiver asks for permission to open since saying “no” is considered to be rude.

10.3.4 Behavior Response

Different kinds of cultures place importance upon different ways of behavior responses. Negotiators from Japan, for instance, culturally prefer an indirect information exchange while those from UK or USA would prefer and reciprocate a direct one. Behavior in low and high context cultures, however, does seem to follow the same patterns in intercultural negotiations: influencing relationships and their goals, information exchange, interaction of cooperative and competitive actions, and final offer stage.

10.3.5 Trust and Fairness

There are two elements of trust that are significant in a negotiation: *risk* and *relationship*. Risk refers to the perceived likelihood of loss and ambiguity about the other parties' intentions. In cultures with high collectivism or femininity, there is higher conformity than in masculine or individualistic cultures. Trust is also linked to the concept of fairness, or reciprocity. It is important to check, in a negotiation setting, if all parties perceive and define fairness similarly and to what extent it plays a role in their actions. Researchers state that while all cultures have a concern for fairness, there are culture-specific rules for its use and application.

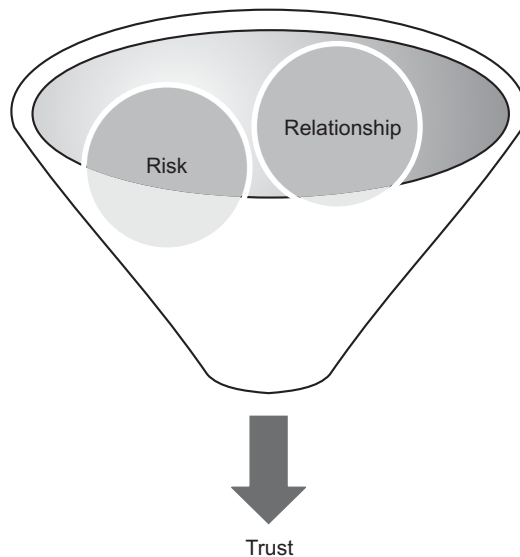


Figure 10.3 *Elements of trust*

10.3.6 Communication

In an international, cross-cultural context, communication becomes one of the most sensitive factors that influence a negotiation and its outcome. There may be translators, interpreters and cultural experts present and yet there can be a gap in cross-cultural communication. A language barrier, if present, can cause the negotiators have no rapport, have a formal or unnatural interaction, undermine hierarchy if senior members do not know the language but junior ones do, increase stress and chances of misunderstanding, leading to conflict, and so on. Non-verbal and action-based communication that is used in everyday life also differ greatly according to culture and can lead to unexpected negativity or ambiguity in negotiation settings.

For persuasive and effective communication, Petty and Cacioppo have suggested two routes: the *central* route, which focuses on the analytical part, i.e., the content of the communication (the “what”); and the *peripheral* route, which focuses on the emotions of the listener and the presentation of the communication (the “how”).

Thus, culture determines the way people communicate and that in turn impacts their negotiation strategies, tactics, and techniques. It is therefore necessary for the negotiator to understand the other party’s culture and the nuances attached to it. Further, the negotiator also needs to analyze the social, educational and professional background of the other party to be adept at cross-cultural negotiations.

10.4 GENDER DIFFERENCES IN NEGOTIATION

It was a bittersweet moment for Bidisha Banerjee, the Deputy Managing Director of a small management consultancy firm. The previous few months had tested the company, given the severe competition and a general slowdown of the economy. Her people were overworked and the morale was low. Adding to it was the request for a substantial raise by two of her market analysts, who believed that their salaries were significantly lower than many of their male counterparts. Bidisha argued on behalf of these two subordinates, and her Managing Director, much to her surprise, agreed to offer a higher increment to both analysts. As she reflected on this victory of hers, she realized that since she did not put up a similar fight for herself, chances were that three of her nine direct reports would make more than she would in the coming year. She wondered why she hadn’t fought her own case that was equally in the right like the other two. Was it her gender that influenced Bidisha in how she negotiated for herself and for others?

It is well known that gender plays a critical role in the approaches, processes as well as consequences of negotiations. Obviously, men have an advantage as the dominant cultural stereotype (Kolb & Coolidge, 1991; Kolb & Williams, 2003), especially Caucasian men. Stereotypes about women may influence the expectations and behaviors of men and women during the negotiation. Women are usually expected to be nicer than men, and as such, gender triggers may cause women to check their behavior more often. In a study by Lewicki & Sanders

(2007), a group of managers was asked to list eight characteristics that they believed managers must have to be effective leaders. The males' lists included characteristics compatible with a competitive style of negotiation while the female ones' listed qualities most compatible with a collaborative style of negotiation.

Kolb and Williams (2003) published a theory on the hidden context of negotiation, also called *shadow negotiation*. They stated that while people negotiate over issues, they also negotiate how they relate to one another. During the process of trying to persuade the other party, each negotiator makes assumptions about the other's wants, weakness, and likely behavior. Since relationships play a larger role in women's lives than in men's, it makes sense that women's attitudes toward negotiation will be more focused on the relationship. Thus, in integrative negotiations, women do better than men since more cooperative behavior is required. Conversely, men do better in distributive negotiation, which requires competitive behavior that is associated with a masculine negotiation style.

Experts have pointed at a number of important factors that affect how men and women approach negotiations. These include the following.

- **Relational view of others:** Women are more likely to see negotiations as part of the larger picture and be aware of all the relationships involved, as opposed to focusing only on the issues being discussed.
- **Embedded view of agency:** Women tend to not draw strict lines between negotiation and other behaviors in a relationship, considering it a part of the whole. Men, unlike this, demarcate more strongly. Due to this, women may often not be aware that negotiation is occurring in the context, to their disadvantage.
- **Beliefs around ability and worth:** As is true of so many other areas, one's perception around self-worth and belief that one must be paid a certain amount work their way into negotiations. Women, especially, tend to see their worth based on what they are paid, while men tend to expect to be paid more.
- **Problem solving through dialogue:** While women usually seek to be more collaborative and open dialogue, looking for joint exploration, men usually use it to win the negotiation and persuade the other party for their gain. This sort of dialogue is observed as being used since childhood.
- **Control through empowerment:** Women and men see and use power in different ways. The former seek empowerment where there is "interaction among all parties in the relationship to build connection and enhance everyone's power" (Lewicki & Sanders, 2007). Men usually use power to achieve their own goals or to make the other party give in to their side of the bargain.
- **Perceptions and stereotyping:** There is strong evidence that men and women are treated differently in negotiation when they engage in the same behavior, as well as the fact that women's behavior strongly shapes how men and women approach a negotiation. The *stereotype effect* can occur when a type of performance anxiety that leads to certain groups, like women or minorities, to fear that their performance would confirm negative stereotypes.

- **When negotiating for others:** When negotiating for others, women advocate with far more vigor and much more efficiently than for themselves. This difference is not seen in the case of male negotiators. Thus, women do better as agents than as principals.

It also appears that women are quite energized when they feel a sense of responsibility to represent another individual's interests. It has been observed that men excel in uncertain, competitive environments, whereas women are classic negotiators when the beneficiary is someone other than herself.

Communication is another area where gender plays a significant role in negotiation. It is understood that the way one communicates often depends on their gender. According to Wood (2005), gender roles are the source of differential communication between males and females. She propounded the *feminist standpoint theory*, which claims that because women are usually the repressed lot in society, their behaviors differ from those of men, and that communication styles are a product of the way people are socialized into when young. Another study by Halpern and Parks (1996) showed that while women communicate more personal information and emotions in a low-conflict negotiation, men are more likely to stick to discussing positions.

In spite of a vast amount of empirical research carried out in this area, there is inconsistency around who negotiates better: men or women, and whether that is even a debate that is required. Two large reviews found that while women behave more co-operatively than men, men manage to get better outcomes. Other studies have observed the differences in how men and women think about negotiation, respond to tactics, how they are influenced by stereotypes, and other factors that may or may not influence negotiation outcomes (Lewicki & Sanders, 2007). Some studies and their results indicate that gender difference in getting negotiation outcomes is not necessarily based on differences in behavior, but rather how the same behavior of male and female negotiators is perceived differently.

[It is a well-known anecdote that during her negotiations with Facebook, Sheryl Sandberg was hesitant to ask for a higher salary since she loved the job and thought that the first offer was good enough. Later, when some of her family members pointed out that no male in her position would agree to take the first offer, she went back to the negotiating table and came out of the meeting with a better offer, including equity in Facebook.]

Though gender is not a good judge of negotiation performance, uncertain situations can trigger different conducts by men and women. There are certain ways to overcome gender differences in negotiation.

- *Focus on common goals and dependency:* Women are still more likely to face backlash for self-promoting behavior, and therefore need to find ways to overcome this drawback. Experts suggest that when women are present in negotiations, the dependency of both the parties on the relationship should be focused on.
- *Activate gender stereotypes,* which research suggests can improve performance. In one study, it was found that after female negotiators were told that masculine traits lead to better performance, women often outshone men in the negotiations (Kray & Thompson, 2005).

- *Changing the focus of the negotiation* to stay with the issues at hand and how they can be resolved best for all parties involved.

Summary

Like all other interpersonal interactions, negotiation is affected vastly by cultural differences. From communication styles to norms and values, there are a number of factors that uniquely affect negotiation. Researchers have found that there are certain crucial cultural elements that affect one's negotiation style: individualism/collectivism, power distance, uncertainty avoidance patterns, masculinity/femininity, and long-term orientation. There are various issues that are sensitive to culture in a negotiation, and can change the outcome of a negotiation scenario, including one's heuristics and biases, behavioral responses, trust patterns, and so on. Another concept that has been widely studied is gender and its influence on negotiation. Research has shown that there are many factors that affect men and women to bring out differences in their style. For example, women are considered to be more collaborative and seeking of open dialogue, and thus might do better in integrative settings. Men are more competitive and seen doing better in distributive negotiations. Communication is one of the main areas of difference based on gender, in negotiation. However, there are ways to overcome gender differences in these scenarios to allow for an unbiased outcome.

Discussion Case

DK Mobile is a leading mobile phone brand in India that is the top-selling Indian brand. Recently, DK Mobile, in a move to expand its market reach and as a first step towards reaching a much larger international market, acquired Kuwu Mobile Company in Japan. The company was down under and had not tapped into the smart-phone market as fast as its competitors and was on the verge of declaring bankruptcy. So, when DK Mobiles came in for the merger, it was a boon to Kuwu. The Co-founder and COO of DK Mobile, Dheeraj Balsaria, was to head Kuwu in Japan. DK Mobiles unanimously decided to retain the brand name Kuwu as it was well trusted in Japan and China.

The merger was a huge success and Dheeraj was excited to begin working on the revitalization of Kuwu. To that effect, he called for a meeting of the top management of Kuwu. The meeting place was to take place at an upscale café in Tokyo. Dheeraj reached the café five minutes past the agreed upon time to find that everyone was already seated and waiting for him. He apologized for his tardiness and took his seat. Himura Miramoto, the Managing Director, and Kusenagi Aika, the CMO set about briefing Dheeraj about their current position. After hearing the entire report, Dheeraj shared his vision for the company with the top management. He wanted to implement the kind of work-place ethics that DK Mobile was famous for. However, Miramoto explained that the labor union wouldn't be comfortable with most of the proposed changes and suggested they keep the working hours and other conditions same as before the merger. Dheeraj wasn't really sold on that and believed that the culture of Kuwu had to change

in order for them to be successful. He felt that the current culture in the company was too strict and curbed creativity. He also wanted to bring in more Indians to fill top managerial positions in the company. The meeting concluded with much to think about for Dheeraj.

Over the next four months, he planned on making some huge changes in the company. As he began unrolling his plan and implementing the steps that he believed needed to be implemented, workers started raising concerns. They were not comfortable with being managed by Indians and with the kind of culture Dheeraj was trying to implement. However, despite Miramoto and Aika's advice, Dheeraj believed that the workers would eventually come to accept the changes. Two months into his plan, the worker's union had had enough of it and declared a company-wide strike, bringing production to a screeching halt at all three of their manufacturing plants. They demanded a meeting with Dheeraj and the rest of the top management. Dheeraj was aghast at this development; he believed that what he was doing was cutting-edge and saving their jobs, but the workers saw it as ostracizing and alienating them. In order to speed up the negotiations, both parties agreed to have a collective bargaining scenario and take up further discussions. Dheeraj sat in front of his laptop, with the meeting looming ahead of him the next day. He had to figure out where he had gone wrong and he phoned Miramoto and Aika to join him, he'd need all the support he could get.

Points to Ponder on

- What sort of research should Dheeraj have done prior to taking up his position in the new company?
- Does culture matter more or strategy? How does the Japanese work culture differ from the Indian work culture?
- Prepare a plan for how Dheeraj could approach the collective bargain the next day and ensure an amiable conclusion to the meeting.

Activity

Divide the class into groups of three: one buyer, one seller, and one broker.

Notes for Seller

The Mysta model car is 3-years old. The latest model of the car is priced at ₹ 10 lakh. When you purchased the car, the latest model was priced ₹ 8.5 lakh. This increase in the price is due to inflation and also due to the demand of this car in the re-sale market, due to its low maintenance costs. You contacted the company's true-value store and they offered you two prices: ₹ 4.5 lakh, if you buy the new car of the same brand, and ₹ 4 lakh if you just sell them this car and buy a car of some other brand. You have researched the market and realized that your car could sell for at least, if not more, ₹ 5.5–6 lakh in the re-sale market, if sold through a broker. You may have to pay some brokerage to the broker, which is usually in the tune of

5-10 per cent of the sale price. However, this depends on what price he can get you. You cannot talk to the seller directly.

Notes for Buyer

You want to buy a Mysta Car, which is about 3–4 years old. You visited the company's resale showroom and got a quotation of ₹ 6–6.25 lakh. Your friend, who has a good knowledge of the automobile industry, has suggested you to buy from a re-sale market, through a broker, as it would cost you at least 10–15 per cent cheaper than the company's quoted price. Although, the broker will charge a commission of 5–10 per cent of the sale price depending on how you deal with him. You cannot contact the buyer directly.

Notes for Broker

You have to meet the buyer and the seller of the car separately. And make sure the deal happens between them. You earn only if the deal goes through. You usually charge 5–10 per cent commission from each side. However, you change your commission for the deal to happen. You can charge different commission from buyer and seller. However, you would like to avoid this in most circumstances.

Exercises

1. Multiple Choice Questions

- i. Business negotiations between which cultures usually result in a more cooperative and creative behavior
 - a. when a business person from a low masculine culture meets a business person from a low power distance culture.
 - b. when a business person from a high masculine culture meets a business person from a high power distance culture.
 - c. when a business person from a collectivist culture meets a business person from an individualist culture.
 - d. None of the situations described above
- ii. In an initial business conversation with a Japanese for providing a consulting service, which of the following is not considered appropriate?
 - a. Discussion about the value of the service
 - b. Talking about the service/consulting fee
 - c. Discussion about the competition
 - d. None of the above
 - e. All are appropriate

- iii. Which of the following is true for women when it comes to negotiation?
 - a. Women often use power to be successful at the negotiating table.
 - b. Women fear that their behavior during negotiation can confirm negative stereotypes.
 - c. Women's attitude towards negotiation is only focused on relationships.
 - d. All of these
- iv. Which of the following statements is true with respect to cross-cultural negotiations?
 - a. Compared to feminine cultures, in masculine cultures, conflict is usually resolved through compromise and cooperation.
 - b. Negotiators from high-risk avoidance countries would look for well-defined structure and timings.
 - c. An autocratic management style is the pattern of behavior in response to conflict with others, such as differences of opinion
 - d. All of these
- v. Messages are usually highly coded and implicit in
 - a. low context societies
 - b. low power distance societies
 - c. high context societies
 - d. None of these
- vi. In terms of communication styles, which of the following countries has a low context society?
 - a. The United States
 - b. Japan
 - c. Italy
 - d. Arab countries
- vii. Michael, an American manager currently based in Zurich, coordinates with multiple IT companies and often works late at night. While involved in a complex negotiation, he calls his Swiss counterpart, after work, for business reasons. The counterpart starts expressing discontent. Why?
 - a. He perceives Michael as an ineffective manager.
 - b. In countries like Switzerland, it is not acceptable to call after work.
 - c. He thinks that this kind of working style will spoil the environment.
 - d. All of these
- viii. Which of the following is NOT true in relation to eye contact?
 - a. The Japanese view direct eye contact as a sign of respect.
 - b. In the U.S., direct eye-contact is a sign of honesty.
 - c. The quality of a person's eye contact can convey their intention meaning to the recipient.
 - d. Hispanic cultures may see direct eye contact as inappropriate with those in authority.

2. True or False

- i. In a professional setting, (in German and French), people tend to address each other with their family name.
- ii. Japanese people usually reward individual achievement.

ANSWER KEY

- | | | | | | |
|----|---------|-----------|---------|-------|------|
| 1. | i. a | ii. b | iii. b | iv. b | v. c |
| | vi. a | vii. b | viii. a | | |
| 2. | i. true | ii. false | | | |

Exhibit 10.1**Communication and Negotiation Style: Japan****Characteristics**

- ☐ High group-orientation and focus of harmony.
- ☐ Tendency to conform.
- ☐ *Honne and Tatemae* – Opinion vs. what is appropriate to say in the situation.
- ☐ Hierarchical relationships in business.
- ☐ Seniority system in terms of age, occupation, title, etc.
- ☐ Form and process as a sign of quality.
- ☐ Situational behavior.
- ☐ High context communication.
- ☐ “Ringi” System: all members are involved in the process.
- ☐ Long-term perspective.
- ☐ Indirect or ambiguous communication.
- ☐ Unintended tone: “You had better attend the meeting.”
- ☐ Confusing verbal cues: “Maybe I think it is good. What do you think?”
- ☐ Confusing non-verbal cues: Laughter.
- ☐ Silence is a contextual trait. It could mean: “Please wait” or “I trust you” or “deal is done” etc.

Implications for Negotiations

- ☐ Less concerned with the pressure of deadlines.
- ☐ Retreat into vague statements or silence.
- ☐ Require frequent referrals to superiors or the head office.
- ☐ Appear to slow down as complications develop.
- ☐ Quickly feel threatened or victimized by aggressive tactics or a stressful situation.
- ☐ Pre-negotiation
 - ◆ Socialize before formal process of negotiation begins.
 - ◆ Establish and maintain harmony.

- ☐ Information exchange
 - ◆ Offer detailed background and explanation before the actual proposal.
 - ◆ Focus on long-term goals and relationships.
- ☐ Persuasion
 - ◆ Patiently collection all the information without giving much.
 - ◆ Silence and other non-verbal expressions.
- ☐ Concession and agreement
 - ◆ Examine all issues simultaneously and holistically.
 - ◆ Concessions are made near the end.
 - ◆ Relationship takes precedence over the terms of the deal.

Exhibit 10.2

Communication and Negotiation Style: United States

Characteristics

- ☐ Extremely independent, individualistic, and like to be different from each other.
- ☐ Believe in freedom of choice.
- ☐ Need a lot of “elbow room”; like personal space.
- ☐ Use good judgment and are careful with whom they talk.
- ☐ Informal and call most people by their first name or nickname.
- ☐ Americans try to keep strong emotions inside.
- ☐ Americans try to share equally with their spouses in parenting and housework.
- ☐ Be careful when you offer your seat on the bus to an older or a disabled person. Most older people do not want to be thought of as someone needing help.
- ☐ Time is money. Never be late.
- ☐ Avoid direct questions related to religion, age, salary, and weight.
- ☐ Debate issues directly and openly.
- ☐ Direct or unambiguous communication.
- ☐ Email messages are expected to be short and to the point, often omitting both the greeting line and the closing line.
- ☐ Coded speech and verbosity is often seen as a waste of time.

Implications for Negotiations

- ☐ Tend to rely on
 - ◆ Individualistic values.
 - ◆ Imagining self and other as autonomous, independent, and self-reliant.

- ☐ Competitive in their approach to negotiations, including coming to the table with a **fall-back** position but beginning with a high ball or low ball.
- ☐ Energetic, confident, and persistent.
- ☐ Enjoy **arguing** their positions, and see things universally, i.e., they like to talk about broad applications of ideas.
- ☐ Concentrate on **one** problem at a time.
- ☐ Focus on areas of **disagreement**, not areas of commonality or agreement.
- ☐ Like **closure and certainty** rather than open-endedness or fuzziness.

Exhibit 10.3

Communication and Negotiation Style: Brazil

Characteristics

- ☐ Love to talk about Football, local cuisine, Brazilian music, economy, industry, natural resources, beautiful beaches, social activities and children.
- ☐ Expressive, passionate.
- ☐ Emotional, jovial, laugh a lot.
- ☐ Don't like to talk about Argentina, ethnic jokes, politics, religion, personal questions (age, salary), and deforestation.
- ☐ The common "O.K." sign is considered vulgar or obscene.
- ☐ Men prefer conservative dark suits.
- ☐ Women prefer flamboyant dresses.
- ☐ Handshake before and after with everyone.
- ☐ Small talks before business meetings is a sign of trust.
- ☐ Good friends embrace.
- ☐ Women kiss on both the cheeks.
- ☐ Locals touch while communicating.
- ☐ Use first name.
- ☐ Common greeting: "Como vai?"

Implications for Negotiation

- ☐ Attitudes and Styles
 - ◆ The primary negotiation style is competitive and Brazilians can be very aggressive negotiators.
 - ◆ They expect long-term commitments (time, money) from their business partners and will focus mostly on long-term benefits.
 - ◆ Proposals should demonstrate the benefits to both negotiating parties, and neither of them should take attempts to win competitive advantages negatively.

- ◆ Disputes can be resolved by leveraging personal relationships.
- ◆ When negotiating, they often take a holistic approach and may jump back and forth between topics rather than addressing them in sequential order.
- ❑ Pace of negotiation
 - ◆ Expect negotiations to be slow and protracted. Throughout the negotiation, be patient, control your emotions, and accept the inevitable delays.
 - ◆ Be prepared to make several trips if necessary to achieve your objectives.
- ❑ Decision Making
 - ◆ Intensely hierarchical.
 - ◆ Decision makers are usually top executives who rarely delegate their authority.
 - ◆ Gaining access to top managers can be difficult, though. You may have to deal with subordinates who have no decision-making authority.
 - ◆ Personal feelings and experiences, as well as intuition, weigh more strongly than empirical evidence and other objective facts do.
 - ◆ Uneasy with change and risks. To gain support on a risky decision, make them comfortable (contingency plans, guarantees and warranties, etc.).
- ❑ Bargaining
 - ◆ Brazilians are used to hard bargaining; leave yourself sufficient room for concessions at different stages.
 - ◆ Intangible benefits such as increases in power and status may sometimes be more desirable than mechanical gains.
 - ◆ Silence can be a way to signal rejection of a proposal or to obtain further concessions.
 - ◆ Do not use tactics such as applying time pressure or making expiring offers, as these may be taken as signs that you are not willing to build a long-term relationship.

Exhibit 10.4

Communication and Negotiation Style: China

Characteristics

- ❑ Collectivistic thinking
- ❑ Hierarchical
- ❑ Relationship oriented
- ❑ Holistic (not reductionist)
- ❑ Circular (not sequential)

Implications for Negotiation

- ❑ Non-task sounding
 - ◆ Long courting process
 - ◆ Formal

- ◆ Draw on intermediaries and references
- ❑ Information exchange
 - ◆ Limited authority
 - ◆ Indirect
 - ◆ Explanations first, proposal later
- ❑ Means of Persuasion
 - ◆ Questioning
 - ◆ Enduring
- ❑ Terms of Agreement
 - ◆ Focus on forging a long-term relationship rather than forging a good deal.
- ❑ Guanxi (Personal Connections)
 - ◆ Place a premium on individuals' social capital.
 - ◆ Prize relationships among friends, relatives, and close associates.
 - ◆ Favors are always remembered and returned.
 - ◆ Ignoring reciprocity is immoral.
- ❑ Zhongjian Ren (The Intermediary)
 - ◆ Intermediary essential during meeting with strangers.
 - ◆ Acts as trusted link between parties.
 - ◆ Interprets negotiator's moods and body language.
 - ◆ They lead the discussions.
- ❑ Shehui Dengji (Social Status)
 - ◆ Confucian values of obedience and deference strong.
 - ◆ Casualness of social status is detrimental.
 - ◆ Sending low-level representative to a high-level deal can kill a deal.
- ❑ Renji Hexie (Interpersonal Harmony)
 - ◆ Relationships of equals are cemented through friendship and positive feelings.
 - ◆ Establishing harmony is prerequisite to do business.
 - ◆ Non-task sounding may last days, weeks or even months.
- ❑ Zhengti Guannian (Holistic Thinking)
 - ◆ Chinese discuss all issues simultaneously in haphazard manner.
 - ◆ Nothing is settled until everything is.
 - ◆ It is a good sign if higher-ranking Chinese official attends meeting.
 - ◆ Increasingly talking in native language.
- ❑ Jiejian (Thrift)
 - ◆ Bargain intensely over price.
 - ◆ Use silence and patience as tactics.
 - ◆ Expect both sides to make concessions after weeks of haggling.
- ❑ Mianzi (Face or Social Capital)
 - ◆ A person's reputation and social standing rest on saving face.
 - ◆ A broken promise or display of anger or aggression causes mutual loss of face.

- ◆ This will be disastrous to any deal.
- ◆ Mock tantrum backfires.
- ❑ Chiku Nailao (Endurance)
 - ◆ Values relentless hard work.
 - ◆ Prepare diligently for negotiations.
 - ◆ Expects long bargaining sessions.

Exhibit 10.5

Communication and Negotiation Style: France

Characteristics

- ❑ Strong belief in family value system.
- ❑ People are private and have different rules of behavior for those within their social circle and those who are not.
- ❑ Generally polite in their dealings and open up only in the company of friends.
- ❑ Handshake is a common form of greeting.
- ❑ First name is reserved only for close friends.
- ❑ Gifts are expected for social gatherings. Common gifts are books and flowers.
- ❑ French people love food.
- ❑ Favorite topics of discussion are French cuisines, art, music, philosophy and history.
- ❑ Never ask a French person about his/her political leanings and never criticize Napoleon.
- ❑ Avoid making personal inquiries in the course of conversation, especially during first introductions.
- ❑ Despite being formal, people tend to stand close when speaking to one another.
- ❑ High on power distance.
- ❑ Low on masculinity.
- ❑ High individualism.
- ❑ Believe in short-term orientation.
- ❑ Maintain courteous tone and a degree of formality during communication.
- ❑ Extremely passionate about their language.
- ❑ Learn few phrases in French.
- ❑ Love intellectual debates and therefore emotions can run high during conversations.
- ❑ Interruptions can happen during conversation where you might be challenged logically.
- ❑ The drawing of distinction is almost an intellectual goal. Building on similarities is not seen as such a positive.
- ❑ Written communication is formal.

Implications for Negotiations

- ☐ Appointments are important: schedule appointments either at 11:00 am or 3:30 pm.
- ☐ Do not schedule meetings during July–August.
- ☐ Inform ahead, in case you are running late for the meeting.
- ☐ Meetings are to discuss issues and not arrive at decisions.
- ☐ Avoid exaggerated claims as the French do not appreciate hyperbole.
- ☐ Courtesy and formality appreciated.
- ☐ Maintain direct eye contact.
- ☐ Business is conducted slowly. So be patient
- ☐ French people like to analyze the proposal minutely
- ☐ Business is hierarchical in nature.
- ☐ Do not be overly friendly.
- ☐ Discussions may be heated and intense.
- ☐ High-pressure sales tactics is to be strictly avoided.
- ☐ Once agreement is reached, it has to be formalized in a precisely worded document.
- ☐ Business dress is understated and stylish.
- ☐ Men should wear dark-colored suits.
- ☐ Women should wear elegant dresses in soft colors.
- ☐ Good quality accessories.
- ☐ Business Cards are exchanged after initial introduction.
- ☐ Have the other side of your business card translated in French.
- ☐ Include any advanced academic degree in your business card.
- ☐ French business cards are often larger than those used in other countries.

Exhibit 10.6

Communication and Negotiation Style: Germany

Characteristics

- ☐ Highly decentralized and supported by a strong middle class, Germany is not surprisingly among the lower power distant countries.
- ☐ The German society is a truly individualistic one. Small families with a focus on the parent–children relationship rather than aunts and uncles are most common.
- ☐ Germany is considered a masculine society. Performance is highly valued. People live in order to work and draw a lot of self-esteem from their tasks. Managers are expected to be decisive and assertive.
- ☐ There is a strong preference for deductive rather than inductive approaches, be it in thinking, presenting or planning.

- ☐ Give a brief but firm handshake.
- ☐ Wait for women to initiate handshake.
- ☐ Men stand up when a woman enters a room and remain standing until she is seated.
- ☐ Meetings are generally formal.
- ☐ Meetings adhere to strict agendas, including starting and ending times.
- ☐ Maintain direct eye contact while speaking.
- ☐ Only close friends and family members call each other with their first names.
- ☐ Business colleagues are addressed as: Mr. or Mrs. + surname (Mr. = Herr; Mrs. (Ms.) = Frau; Miss = Fraulein).
- ☐ Speak in complete sentences.
- ☐ To get someone's attention, raise your hand, palm out, and only extend your index finger.
- ☐ Never beckon.
- ☐ Men wear dark-colored, conservative business suits.
- ☐ Women wear business suits or conservative dresses.
- ☐ If you are invited to a German's house, bring gifts like chocolates and flowers.
- ☐ Yellow roses or tea roses are always well received.
- ☐ Do not give red roses, as they symbolize romantic intentions.
- ☐ If you bring wine, it should be imported—French or Italian.
- ☐ Gifts are usually opened when received.
- ☐ No personal relationship for doing business.
- ☐ No open-door policy. People often work with their office door closed. Knock and wait to be invited in before entering.
- ☐ German communication is formal.
- ☐ Following the established protocol is critical to building and maintaining business relationships.
- ☐ Expect a great deal of written communication; backup decisions and maintain records.
- ☐ Punctuality: Always be on time.
- ☐ Make an appointment *via* fax or telephone: make it 1–2 weeks prior to meeting.
- ☐ Letters should be addressed to the top person in the functional area, including the person's name as well as their proper business title.
- ☐ If you write to schedule an appointment, the letter should be written in German.

Implications for Negotiations

- ☐ Do not sit until invited and told where to sit. There is a rigid protocol to be followed.
- ☐ Treat the process with the formality that it deserves.
- ☐ Germans prefer to get down to business and only engage in the briefest of small talk. They will be interested in your credentials.

- ☐ Make sure your printed material is available in both English and German.
- ☐ Contracts are strictly followed.
- ☐ You must be patient and not appear ruffled by the strict adherence to protocol. Germans are detail-oriented and want to understand every innuendo before coming to an agreement.
- ☐ Avoid confrontational behavior or high-pressure tactics. It could be counterproductive.
- ☐ Once a decision is made, it will not be changed.

Exhibit 10.7

Communication and Negotiation Style: Italy

Characteristics

- ☐ Prefer to be addressed using titles such as Signor and Signora, followed by first name.
- ☐ First impression and appearance are very important.
- ☐ Physical contact, such as kissing and hugging, is considered normal among males and females.
- ☐ Sense of personal space is much less. Stand close to each other when talking.
- ☐ Religion and religious activities are very important.
- ☐ Each village, town and city has its own patron saint.
- ☐ Superstitious and use icons to protect themselves from evil.
- ☐ Love to eat and passionate about food.
- ☐ Consider good cooking an art.
- ☐ Sharing food is very important.
- ☐ Before meals pray or cross themselves.
- ☐ Relish wine.
- ☐ Italians speak a lot. In order to convey, use language effectively and persuasively.
- ☐ Should be able to use talkativeness and display of emotions to their advantage. These are not considered as lack of professionalism and are being looked as a manager's armory.
- ☐ Formal presentations feature less heavy in Italian business.
- ☐ Italians put more faith in information given to them orally by somebody with whom they have a strong, trusting relationship.
- ☐ Send something in writing to Italy and a request comes back for a discussion.

Implications for Negotiations

- ☐ Italians prefer to deal with known people.
- ☐ Relationship-oriented. Prefer to establish direct relationships, even superficially, before getting down to business.
- ☐ Centralized decision-making.

- ☐ Titles can be misleading. Authority often goes with the individual, not necessarily the title.
- ☐ Pace of negotiations is usually relatively slow. Any sense of urgency might weaken one's bargaining position.
- ☐ Conversational subjects that are highly appreciated are: Italian culture, art, food, wine, sports such as bicycling and soccer, family, Italian scenery, and films.

Exhibit 10.8

Communication and Negotiation Style: Middle East

Characteristics

- ☐ Honor (self-respect to self-pride) and expectation of equal treatment regardless of wealth, position, or rank.
- ☐ Fierce sense of independence and resentment of imposed rules or decisions not sanctioned by social norms and customs.
- ☐ Strong loyalty to extended family, friends, and locality, and a great expectation of solidarity.
- ☐ Hospitality to guests and visitors.
- ☐ Family loyalty and obligation is paramount.
- ☐ Family is seen as a person's ultimate refuge and support system.
- ☐ Children are taught profound respect for adults.
- ☐ Public display of intimacy between men and women is considered offensive.
- ☐ The maintenance of family honor is one of the highest values.
- ☐ Most Middle-Easterners still prefer arranged marriage. The family always plays a major role in the decision of any member to wed.
- ☐ Middle-Eastern society has been in a state of flux for over a century, searching for a new direction and identity, and experiencing a great deal of tension as rivaling forces compete for its future.
- ☐ The most pronounced tension is between modernity and tradition that increasingly takes the form of struggle between Islam and modernity.
- ☐ Many Muslims view Islam not simply as a religion, but also as a cultural identity and heritage.
- ☐ Middle East has a predominantly high-context communication style. Hand gestures, eye contact, posture, facial expressions, and even the intonation of your voice can drastically change the message you are trying to send.
- ☐ Attitude toward time and hospitality: they take time to develop friendship and trust, as these are prerequisites for any social or business transactions.
- ☐ People and relationships matter more than the job, company, or contract; conduct business personally, not by correspondence or telephone.
- ☐ Dislike expressing doubts or criticism in public.

- ☐ Importance is laid in adapting to the norms of body language, flowery speech, and circuitous verbal patterns in the Middle East.
- ☐ Need to be patient with people in Middle East, instead of trying hard to get to the point.
- ☐ Expect many interruptions in meetings, delays in schedules, and changes in plans.

Implications for Negotiation

- ☐ The guy who enters the room last is the most important guy on the Middle East team. Some times, they even hold the door.
- ☐ Middle East guys want to look tall and big during negotiation. They give more importance to honorary thing very much and can write off tangible benefits for intangible honor.
- ☐ They take rejecting things in the home ground of the opponent as an honor. So, all Middle East negotiations should preferably be done at a place where decision should be taken.
- ☐ It is more informal; casual interruptions are permitted, small talk takes place, it is not rushed, and breaks are taken.
- ☐ Hard to tell when business ends and social conversation begins.
- ☐ Middle East negotiators are less apprehensive about deadlock. They are more of the mind-set that if the deal does not go through, it was not meant to be.

Exhibit 10.9

Communication and Negotiation Style: Russia

Characteristics

- ☐ Two distinct cultures: Western European region, centered around St. Petersburg and the Eastern European region, around Moscow.
- ☐ Expects its members to have a sense of belonging and conforming to their group but still gives opportunities for individual expression.
- ☐ Believes in building lasting relationships. Relationship building is a slow process.
- ☐ Believes in having relationships at individual as well as company level.
- ☐ Communication can range from very direct to rather indirect.
- ☐ Not many people speak English fluently, even though they claim to do so.
- ☐ Better to bring your own interpreter, as there is a possibility that the interpreters are not fluent.
- ☐ When communicating in English, speak in short and simple sentences. Don't use jargon. Summarize key points often and pause frequently to allow for translation.
- ☐ Speaking loudly is frowned upon in business settings. However, emotions are often shown openly. People converse standing 2–3 feet apart.

Implications for Negotiations

- ☐ Emphasize common ground to establish trust. If possible, go through an intermediary.
- ☐ Refrain from praising or rewarding anyone in public, as doing so may raise suspicion about your motives.
- ☐ Importance of rank and status.
- ☐ Less importance to age and education.
- ☐ Admired personal traits include firmness, sincerity and dependability.
- ☐ Avoid much physical contact. Some hand gestures like 'V' are frowned upon.
- ☐ Like frequent eye contact to the point of staring, as it conveys sincerity and trust.
- ☐ Important to ensure that roles are clearly assigned, as Russians are very good at exploiting disagreements within the group.
- ☐ Conservative attire with suit and shoes in good condition.
- ☐ Better to organize meetings 2–3 weeks in advance with clear info on the title position and responsibilities of attendees.
- ☐ First meeting is generally with the subordinates (they may have an influence on the final decision) and this meeting may be cancelled with little or no notice.
- ☐ Visitors are expected to be punctual even though they themselves may be late, as they may use it as a test of patience.
- ☐ Add Mr. or academic qualification to family name to address the person. Don't call by first name unless given permission to do so. Introductions are accompanied by firm handshakes.
- ☐ Exchange of cards is the first step. Print cards in both Russian and English with academic qualifications and professional title clearly. Present card with the Russian side on the front.
- ☐ Smile while accepting card, look at it and place it in your front pocket or in the card case.
- ☐ Meeting generally starts with small talk, ranging from small to long duration. Do not be aggressive or push for discussing business.
- ☐ Meeting may go on for a long time; don't expect quick results. Russians can be extremely patient, persistent and stubborn.
- ☐ Negotiators may try to exaggerate their capabilities and undermine yours to strengthen their position.
- ☐ Primary negotiation style in the country is very competitive and people may become outright adversarial.
- ☐ Russians view negotiating as a zero-sum game in which one side's gain equals the other side's loss, but negotiations may become more personable and at least a little more cooperative if strong relationships have been established between the parties, prior to negotiation.
- ☐ They don't share information easily, as they believe it creates a situation of advantage.
- ☐ Discussions tend to be protracted with multiple issues being brought in one after the other. There may be attempts at stalling, which might be a tactic to slow you down.

- ☐ Compromise is considered a weakness and major concessions from you may be asked in exchange of minor ones by them. Be polite but remain tough.
- ☐ Companies are hierarchical and seniors rarely delegate authority.
- ☐ Capturing and exchanging written understandings in form of minutes after meetings and at key negotiation stages are useful since oral statements are not always dependable.
- ☐ Written contracts should be clear and concise, without too many detailed terms and conditions.
- ☐ Signing the contract is important not only from a legal perspective, but also as a strong confirmation of your Russian partners' commitment.
- ☐ Having a clause for arbitration in a third country is good.
- ☐ Consulting a legal expert before signing an agreement is advisable.
- ☐ After signing the contract, invite your counterparts to a lunch or dinner.
- ☐ Stay in regular contact to ensure contract is fulfilled.

Exhibit 10.10

Communication and Negotiation Style: South Africa

Characteristics

- ☐ It is among the most multicultural countries in the world.
- ☐ Mixture of different ethnicities: Black Africans, White, Colored, and Indians.
- ☐ It has 11 official languages.
- ☐ Music, dance, art, and traditional rites are important.
- ☐ Nuclear family is the ultimate basis of family.
- ☐ Rural / Urban dichotomy.
- ☐ Major differences in communication styles:
 - ◆ White South Africans prefer plain-speak; associate subtleness with untrustworthiness.
 - ◆ Native African cultures stress diplomacy in communication.
- ☐ Humor is used widely as a communication device.
 - ◆ Humor cuts across classes.
- ☐ Raw language use:
 - ◆ Use of abusive words is very common.
 - ◆ Use of sexual references as humor is widely accepted.
 - ◆ Wide use of metaphors and sports analogies.
- ☐ Body touch (backslapping, lengthy handshakes) considered mark of affection.

Implications for Negotiations

- ☐ Develop trust *before* negotiating.
- ☐ Avoid confrontations, do not argue or disagree openly, strive for win-win situations.

- ☐ Do not haggle over price.
- ☐ Go for face-to-face meetings.
- ☐ Use 'Affirmative Actions' on local black population empowerment.
- ☐ Be patient: decision-making process is slow and involves top and bottom staff.

Exhibit 10.11

Communication and Negotiation Style: United Kingdom

Characteristics

- ☐ Britain is a systems society, very much governed by a strong legal system and a principle of fair play.
- ☐ Once renowned for its formality, Britain has become one of most informal business communities in the world, with all levels of society on first-name terms.
- ☐ Colorful history and a strong sense of tradition that has been shaped by a colonial empire, both civil and European wars and a constitutional monarchy.
- ☐ Indirectness
 - ◆ Polite and courteous but detached.
 - ◆ Pay attention to tone of voice and facial expression.
- ☐ Stiff upper lip
 - ◆ Reserve and restraint when faced with difficult situations.
 - ◆ Avoid open displays of emotion, positive or negative.
 - ◆ Approach business with an air of formality.
- ☐ Humor
 - ◆ Defense mechanism, often in the form of self-deprecation or irony.
 - ◆ Highly implicit.
- ☐ Business practices
 - ◆ Handshakes as mode of greeting and later on verbal greetings, using titles.
 - ◆ Disapprove loud or demonstrative behavior.
 - ◆ Respect personal space.
- ☐ Class system
 - ◆ Not limited to wealth and education.
- ☐ Business etiquettes
 - ◆ Punctuality and courtesy.
 - ◆ Small talk or ice breakers.
- ☐ Life after work
 - ◆ Socialize informally.
- ☐ Prefer tidy schedules and agendas
 - ◆ Detailed introduction of self and team.
 - ◆ Present detailed procedural agenda.

- ◆ State implications and long-term views.
- ◆ Allow time for questions.
- ◆ Summarize or propose action plans and deadlines.
- ❑ Social and business mannerisms
 - ◆ Use first names.
 - ◆ Courteous and friendly but detached.
 - ◆ Polite: shake hands at the beginning and end of meetings.
 - ◆ Tenuous handshake.
 - ◆ Nervousness at confronting someone new, reluctant to reveal too much emotion too soon.
- ❑ Practical and empirical people
 - ◆ Allow opportunity for debate in presentations.
 - ◆ Content is more important than body language.
 - ◆ Pack your presentations full of attainable objectives, concrete detail and provable statistics.
 - ◆ A sense of calm and proportion usually prevails in British business.

Implications for Negotiations

- ❑ Don't prefer working with iron-fisted negotiators.
- ❑ Will not rush through a deal because of time pressure.
- ❑ Can turn down negotiations if pushed too hard.
- ❑ Seriousness given to a handshake and an oral agreement at the end of the negotiation.
- ❑ Fickle Minded. May have second thoughts or need to get approval from superior authority.
- ❑ Deal is legal only if it is inked.

Dos

- ❑ Deliver on time, without drama.
- ❑ Arrive at meetings punctually.
- ❑ If you're having difficulties, ask advice immediately rather than risk missing a deadline.
- ❑ Check at the end of a meeting exactly what the Brits expect of you.
- ❑ Join them for a beer after work, or in the gym (most Brits now avoid alcohol).

Don'ts

- ❑ Boast about your achievements.
- ❑ Talk for an hour in a presentation.
- ❑ Phone people in the evening about work.
- ❑ Let a colleague down once he or she believes they can depend on you.
- ❑ Be patronizing to women.



Personal Power in Negotiation

Learning Objectives

After studying this chapter, you will be able to

- Find how personalities affect negotiations
- Assess the role of personal values and ethics in negotiations
- Match personality to ability and style

POWER IN NEGOTIATION

Nicholas D'Souza was one such officer—a man brought up by a strict mother and a father who was in Armed Forces, his values of patriotism and “doing what is right” were unshakeable. He knew of the politics in government bodies, having heard many stories from his father. He knew of the corruption, deceit and money talks from his mother, a government official. Born with a near-genius IQ and reared under fear of God (though he was agnostic), he grew to be a force to reckon with, when it came to unethical practices. He refused to interact with anyone he knew was involved in any illegal activity, from friends who smoked pot in university to colleagues who accepted innocuous movie tickets or presents from well wishers. When he joined the local municipal commission, he quickly became well known for “not humoring” politicians, area goons and movie stars with their requests for imported car waivers, building big houses or allowing utility connections.

One day, a reputed manufacturer walked into his office and started speaking about some regulations that had stopped him from working on a huge factory that was to come up in the

area. The lack of permission, the manufacturer explained, was holding up construction, which was also keeping many people from the area to be employed. Alcoholism among the youth there was rising, and he was hoping it would change things with work opportunity.

Nicholas D'Souza looked over the proposal and found that it would, potentially, bring a change in the employment prospects. Yet, he knew it was illegal and that the manufacturer was known for bribing or crushing everyone who came in his way. With that sort of history, it wouldn't be long before he, Nicholas, would be offered something too. He asked for a week's time to look over the regulations after which he would get back with an answer.

Once the manufacturer left, he made his way to his senior's office to see what he had to say. His boss, who knew the manufacturer and was under pressure to get the go ahead for the factory, asked him to find the necessary loopholes or regulations that would allow it to happen. Knowing how upright his junior was in matters of principle, he argued that it was a case of bad being better than worse: there were so many outright goons that at least this manufacturer was trying to help the area by setting up a factory, however illegal! D'souza understood his senior's veiled references but also knew that the jurisdiction of this action lay with him alone, as the Officer in Charge. He also knew it was possible to set up a smaller but thoroughly legal factory in the area without compromising on all the positives it brought. It was a question of vested interests and personal greed. Coming under direct pressure to give in, he used his personal values to make the decision—he would not give permission for the entire unit, only for the legal parts, as they fell under the present regulations. The latter could not be changed at the whim of one industrialist.

D'Souza was to get through a large amount of rigmarole because of this. He was threatened with suspension, his office car pelted with stones, his family members getting dire warnings. But he did not waver from his decision. He made his intention clear in the press as well, which led to a sizeable amount of uproar among the general public against his senior and the manufacturer. Finally, on seeing his unrelenting action on the issue and not being able to change his mind, the manufacturer went ahead with the smaller factory. D'Souza's senior moved him to another area of jurisdiction for a while since tensions had escalated between them, but ultimately D'Souza replaced him as the area chief.

11.1 HOW PERSONALITIES AFFECT NEGOTIATION

Among the many sources of power in a negotiation, *personal power* is one of the most naturally present ones. It consists of one's knowledge, ability to influence and one's overall image as a negotiator. Also known as *reference power*, it is called

Personal power in negotiation consists of one's knowledge, ability to influence and one's overall image as a negotiator

charisma or *influence* in layman's terms. It is what allows an individual to enable co-operation and achievement of a goal, ranging from a simple social one to a complex negotiation process, with ease and through knowledge, determination and confidence.

In a negotiation scenario, personal power is the negotiator's knowledge and experience that allows him to see associations between different factors. Patterns of communication, processes of bargaining and exposure with different kinds of events and people bring a large amount of personal power to the individual. As such, it brings confidence in managing the entire process and an awareness of one's ability to achieve necessary goals through the use of tactics and strategy.

An important factor in personal power is the value of the *currencies* available to the negotiator. This is related to one's skill and yet not so: a skilled negotiator might have low currency and therefore may not be able to influence others as much as a negotiator with high currency might, regardless of his skills and abilities. These factors combine in many ways, ultimately demonstrating the importance of personal power in any negotiation setting. Personal power thus works like reputation does, in that it can bring about better agreements because of the person negotiating it.

Often, personal power can be established to a certain extent by creating the *appearance* of power. While this is debatable in terms of empirical data, it is a thumb rule in many settings that the more powerful you appear to be (for example, through what is known as "power dressing"), the more power the other party will assume you have. While this is a moderately successful way of using personal power in a negotiation, it cannot compare to the slower but more substantial process of *building* one's actual personal power. One of the ways of doing so is to be mindful while using the more negative sources of power, such as positional or coercive power.

11.2 PERSONAL VALUES AND ETHICS IN NEGOTIATION

Ethics is the study of morality; the belief system based on which one develops *values*. The dictionary definition of ethics is: a system of moral principles or values; the rules or standards governing the conduct of the members of a profession; accepted principles of right or wrong.

11.2.1 Ethics

There are three main schools of thought that talk about ethics. The first one, by Aristotle, is called **ethics of purpose**, which propounds the belief that humans, by nature, are *good*, and the

Ethics of purpose propounds the belief that humans, by nature, are good, and the ultimate aim of any being is to realize a good end

ultimate aim of any being is to realize a good end. Thus, the means to such an end must also be good. This is thus a fairness or justice-based approach. According to Aristotle, good conduct arises from habits, which can only be acquired by repeated action and correction, thus making ethics an intensely practical discipline.

The second theory, propounded by German philosopher, Immanuel Kant, states that people will use a reasonable or rational approach whereby, they will treat others the way they wish to be treated. This is called the **ethics of principle**.

Everyone should sometimes use the principle approach to moral decision-making. Without principles, negotiators have no parameters limiting what they will or will not do. On the other hand, it is not recommended to always use the principle approach as it is likely to be considered dogmatic and people will find it hard to get along.

Ethics of principle states that people will use a reasonable or rational approach whereby they will treat others the way they wish to be treated

The third theory, by Englishman John Stuart Mill, is more *utilitarian* in nature. It suggests that one can only judge the moral value of an action by the consequence of that action; thus, ethical action is what provides the best balance between good and evil. This is known as the **ethics of consequence**.

Ethics of consequence suggests that one can only judge the moral value of an action by the consequence of that action

Negotiators who are unconcerned about results may be accused of being naïve or having their heads in the clouds. If, on the other hand, they always use the consequence approach, they will be seen as cold and uncaring.

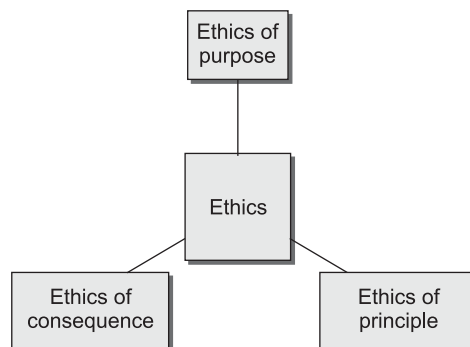


Figure 11.1 Ethical theories

When Rajeev's son was learning to walk, his wife would say, "Don't let him get near those two steps going down into the living room; it would be wrong to let him fall." Rajeev, on the other hand, would say, "The steps are not that high. I don't think he will get hurt. Let him fall once or twice and he will learn how to use them." This did not convince his wife. She was using the principle approach to decision-making, and Rajeev was using the consequence approach. Though they shared the same

values—wanting to keep their son safe while he learned to walk—their moral approaches were different and hence they were unable to reach an agreement on this matter.

In negotiation, many experts have proposed oft-competing theories about how to use ethics in the process. Some of these include Green (1993), Hosmer (2003) and Hitt (1990). Based on their theories, there have come about four standards for evaluating negotiation strategies and tactics:

1. Deciding on an action path based on the **results** to be achieved, or greatest return on investment. Here, the ethics are *end-result* ethics, such that the rightness of an action comes from evaluating its consequences. These can cause a negotiator, however, to do *whatever* it takes to reach the result.
2. Deciding on an action based on one's perceived **duty** to uphold relevant rules, such as the law. These are *duty* ethics, where rightness of an action comes from the obligation to stick to principles and standards. These can lead to rigidity in one's negotiating, such as if it involves lying or doing something illegal.
3. Deciding on an action based on the **norms** and values or strategies of one's in-group, such as the organization or community. These are called *social contract* ethics, governed by one's culture and where rightness of action is based on its norms and customs. This may involve negotiators going by what they believe is appropriate or normal in their environment, and not pay as much attention to law, such as while lying or cheating.
4. Deciding on an action based on one's **personal** convictions or conscience, also known as *personalistic* ethics. Here, rightness of action is determined by one's internalized standards and values. Negotiators using this system would pay most attention to their own beliefs and take judgement calls accordingly.

While there are strong ethical models and standards across cultures, it is understood that a certain amount of unethical behavior or deception is a part of any negotiation. This includes behaviors such as hiding the party's true aims from the other, using bluffing tactics, emotional manipulation and so on. While it is understood that some use of these is acceptable and reasonable, over-use of such ways or outright deception that causes serious negative consequences is, of course, to be avoided. Using blatantly unethical means in a negotiation can have various effects, both positive and negative: these depend on the kind of tactic used, how the other party perceives and evaluates it, and how the negotiator himself evaluates it.

There are certain kinds of negotiators, however, who may use unethical methods as more standard practices. Some of the factors influencing this include *demographic* characteristics, as well as *gender*. Certain studies, such as by Volkema (1999), conducted on American and Latin women, show that men are usually less ethical than women. Other factors include *personality traits* and *moral development* of the negotiators, and their *age*, *experience* and *nationality*. Studies

across researchers, for instance, have demonstrated that Americans and Asians are more likely to bluff in negotiation as compared to Eastern Europeans. *Cultural differences*, such as the importance one culture gives to co-operation versus competition, also are an influencing aspect.

According to Cramton and Dees, there are three main steps in managing an ethical negotiation. First, *assess* the situation, which is similar to the preparation stage of negotiation. Second, build *mutual trust* to eliminate possibilities of unethical exploitation, which can affect the current as well as future negotiations. Finally, take steps to *protect oneself* through business or legal means as required, so as to pre-empt the consequences of unethical actions by other stakeholders involved.

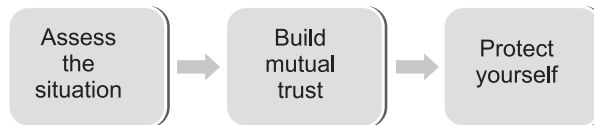


Figure 11.2 Steps in managing ethical negotiation

Below are some basic *rules* to be ethical in a negotiation:

- Having knowledge of what is not negotiable in the setting
- Demonstrating honesty
- Considering and having multiple options. This can enable both you and the other party to achieve their goals.
- Being familiar with the law
- Being willing to say no or walk away from a deal

11.2.2 Values

Values are the patterns used by people to orient themselves to their environment; essentially, the *ends* that need be achieved and the *means* to do so. They are majorly based on culture and upbringing. Significant others such as family, teachers, friends, colleagues and spouses influence our value system.

Values can be *self-centered* in the sense that they are the standards that have been internalized by the person and accepted as criteria for behavior. They can also be *social-centered*, which means they are the external aspects that act as guiding principles for other people's behavior, and are based on the social environment. All individuals have both of these present in their value system.

Values are the patterns used by people to orient themselves to their environment; essentially, the ends that need be achieved and the means to do so

Self-centered values are the standards that have been internalized by the person and accepted as criteria for behavior

Social-centered values are the external aspects that act as guiding principles for other people's behavior, and are based on the social environment

According to Rokeach, values are ultimately beliefs about what is good or desirable. He distinguishes two kinds of values:

- **Terminal values**, which are concerned with the ends, or *what* we want to achieve. In a negotiation, this would be the object of the negotiation, such as employees negotiating a higher salary.
- **Instrumental values** are concerned with the means, or *how* we achieve something. These could include the strategies or tactics as well as communication techniques used by negotiators during the process.

Terminal values are concerned with the ends, or what we want to achieve.

Instrumental values are concerned with the means, or how we achieve something.

Based on one's values, *behavioral rules* are established and adhered to in daily conduct. These can be implicit and explicit, and are demonstrated in our customs, communication and overall way of behaving. They can be descriptive (what people *do*) and injunctive (what people *should do*). While these rules are subjective across cultures and even individuals, if they are made into formal rules of conduct, such as, say, for international negotiation processes, they can become laws, codes, and even ethics. At other times, for daily life scenarios, they are implicitly aligned to; children learn from parents and teachers, employees are trained or communicated to by seniors, and so on.

As such, in a negotiation, the ethics, values and behavioral rules held by parties is of crucial significance. It influences how they view the negotiation scenario, each other and the process, as well as how they evaluate the negotiation and how they behave during it.

In general, we must stay true to the essence of those values, even though the variables may change. For example, the Constitution of the United States is the essence of law; how it is applied or amended is the variable. All businesses need a Code of Ethics for the same reason. People need to know "the essence" so they can apply it. Everyone speak their own truth, but that doesn't make it "The Truth." We need to be in touch with our own values and yet be open to the fact that they are not absolute and need, at times, to be open to re-evaluation and maybe even a new direction.

11.3 MATCHING PERSONALITY TO ABILITY AND STYLE

An individual's personality affects his negotiation, like it does everything else. However, it is still difficult to pinpoint the exact correlation between different personality traits and negotiation behaviors; it is easier, or rather more logical, to understand that negotiation is affected by clusters of traits rather than a specific or a generic one. Along with this, other influencing factors such as context, age, and cultural differences play a major role.

In a study recently conducted by Hillary Anger Elfenbein (Washington University in St. Louis), Jared R. Curhan and Lucio Baccaro (Massachusetts Institute of Technology), Noah Eisenkraft (University Of Pennsylvania), and Aiwa Shirako (University of California, Berkeley), the following five main areas were found in which negotiators differ.

- Positive beliefs about negotiation, such as comfort with negotiation skills and belief in self-improvement.
- Conflict style, as in the inclination to collaborate rather than compete, as well as ethical tendencies, such as willingness to make false promises.
- Intelligence and creativity
- Personality traits, including conscientiousness, openness, and self-esteem.
- Observable traits, such as gender, age, and physical attractiveness.

To understand if such differences affect negotiation outcomes and the extent to which they do so, Elfenbein *et al.*, conducted a battery of surveys and experiments that demonstrated that 46 per cent of score variations correlated in some way with consistent individual differences across interactions; i.e., differences among negotiators were responsible for nearly half of the results. It was also found that these personality differences influenced the negotiator's behavior as well as that of the other party.

There are various approaches to the study of personality and prediction of negotiation behavior, or matching a negotiation scenario to a personality. These include the following.

11.3.1 Conflict Management

Conflict depends upon the degree of **assertiveness** and **cooperativeness** in an individual's personality. These two concerns correlate to cause five main behaviors in conflict: *competing*, *accommodating*, *avoiding*, *collaborating* and *compromising* (Thomas, 1976). In negotiation, different scenarios require different styles. In high-stake negotiations, for instance, individuals with a dominant competing style would succeed.

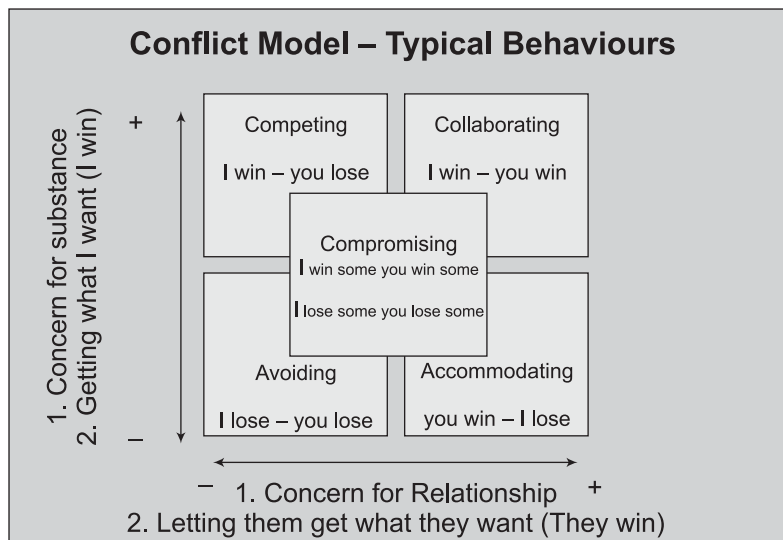


Figure 11.3 *Conflict model*

Competing

If the parties need the results in a very short period of time, their behavior becomes competitive, as they are certain that something is non-negotiable and immediate agreement is required.

Accommodating

If any of the parties is in a weak position and at fault, it is critical to be accommodating to save or repair the relationship. It is better for the party to give in gracefully than spoil the relationship.

Avoiding

This can be used when the parties feel that the issue under negotiation is trivial and there is not much value in investing time to resolve the conflict.

Compromising

This style can be used while dealing with trusted parties and when you are being pushed for time. In this, both parties win and lose - but they should make sure that they win the right things and lose the right things in the process.

Collaborating

Usually used in business-to-business negotiations, collaboration is the primary style and helps understand the feelings and deeper interests or motivations of all the people on the table.

Before negotiating, one should stop and reflect on their preferred style of negotiation and also the style that best describes one's business client or vendor negotiation relationship. Also, negotiators should make sure that they just don't blindly apply one negotiation style and rather work through the list of goals in the plan and decide the issues, which would be best to collaborate, compromise, compete, avoid and accommodate.

11.3.2 Social Value Orientation

This is the preference for a particular outcome in social settings, which individuals with differing personality traits may have. A **proself** orientation means that the individual is concerned mostly about himself and not others in the party. A **prosocial** orientation is one where an individual prefers outcomes that benefit both, themselves and others. Since negotiation involves social interdependence, these orientations play a key role. Pro-self individuals are more likely to use distributive strategies or tactics, while those with prosocial tendencies would use larger amounts of integrative negotiation behaviors (de Dreu *et al.*, 2000).

11.3.3 Trust

Rotter (1980) states that people differ in their level of **interpersonal trust**—an important factor in social relationships, including negotiation. Interpersonal trust is defined as the general expectancy that the word, promise, oral or written statement of another individual or group

can be relied on. This is determined largely by the experience of the individual: those with positive trust experiences are more likely to trust others in a negotiation scenario, which in turn increases the likelihood of them behaving more morally or ethically.

11.3.4 Locus of Control and Self-efficacy

Self-efficacy is the judgment about one's ability to behave effectively in a given situation, which, in itself becomes motivation to be effective and function at an optimal level. It plays an important role in complex interpersonal interaction, such as negotiation. A related concept is locus of control, which can be internal or external. A study by Stolte (1983) suggests that those with an internal locus of control are more likely to negotiate desired outcomes than those with an external locus. Other research put together suggests that locus of control influences negotiator aspirations and preferences in the scenario.

In terms of negotiation ability, there are three main factors that affect a negotiator's personality: *cognitive ability*, *emotional intelligence* and *perspective-taking ability*. Cognitive ability, or intelligence has been extensively researched and is known to influence most processes like information processing, reasoning, decision-making, learning, and adaptability to change. Studies on negotiation have found a strong correlation between this ability among negotiators and the integrativeness of a negotiation outcome.

Emotional intelligence, on the other hand, refers to how people analyze and use emotion in diverse life scenarios. Researchers suggest that EI plays an important role in negotiation processes such as information gathering, risk assessment, and understanding the other party's interests.

Perspective-taking ability is seen as a significant influencing factor in the planning stages of negotiation. It enables negotiators to understand the other party's viewpoints and in turn predict their strategy or tactics (Neale and Northcraft, 1991). The researchers have also studied its connection to concession rates: those high in this ability are able to make the other party agree to more concessions.

Shapiro and Jankowski (1998) have distinguished four types of personalities that affect negotiation style: *extroverts* (not detail-oriented); *pragmatists* (play hardball and are high on impatience); *analytics* (prepared, methodical, logical, slow and less sensitive); and *amiabes* (focus on integrative solutions, high empathy and listening skills).

Thus, personality and its various factors create predispositions to certain specific behaviors that affect one's negotiation skills and ability.

Summary

We have studied the sources of power already, one of which is personal power. Reference power or charisma, as it is also called, is one of the most important sources of power in negotiation; research shows that simply *creating* the appearance of personal power can have a similar effect. Like power, an individual's values and ethics are also of significance in negotiation. There are three well-known approaches here: Aristotle's ethics of purpose, Kant's ethics of principle, and

Mill's ethics of consequence. There are basic rules to ensure that one is ethical in a negotiation. Values come from ethics and can be terminal or instrumental in nature. It is a well-researched fact that personality differences affect negotiation, although the exact relationship is tough to define. Some of the areas that personality–negotiation relationship has been studied in include conflict management, locus of control, and trust themes.

Discussion Case

Donald Carver was the Head of Creative Strategy at an up and coming advertising firm on Madison Avenue. He was well respected for his ability and well loved for his personality. Often, he was the reason clients—who would usually have been out of their firm's reach—came to them. One evening, Donald was in a meeting with a major-league client account that could possibly earn millions for the firm. He was flanked on either side by his boss, John Bergmann and his art designer, Sunil Agarwal. The account belonged to a large chain of upscale boutique shopping stores that needed a rebranding campaign to increase their customer base. It was right up Donald's usual line of work. He was excited.

When the meeting began, the CEO of the boutique chain, Martha D'Souza asked Donald in what capacity Sunil was present in the meeting. Donald explained that Sunil handled the design work and that he'd be the one designing the outlines for the account, should they choose to go ahead with their firm. Martha's face soured at this and upon being asked if something was the matter, she explained that she did not want an Indian working on her project. She had had some bad run-ins with Indians she had employed previously and just did not want to involve herself with people from that part of the world. Donald was taken aback; he explained that Sunil was one of the best and that he would do a stellar job. Martha was adamant. She told John that she'd be going to some other ad agency if this small problem could not be fixed. This whole time, Sunil sat there in mute horror. Being someone who usually let his work speak for himself, he couldn't believe that he was facing this kind of treatment, and that too from such a big client.

John asked permission to step out along with Donald to discuss the matter further and excused himself. But Donald stood his ground and refused to go outside. He stated clearly that if Sunil couldn't work on the project, they had no one else to replace him and that they'd rather let the project go. John was furious; this was the kind of account that would propel them into superstardom. He figured that compromising some values temporarily for that kind of a gain was okay. Martha listened in silence and nodded. She stood up to leave and mentioned at the door that the offer was still open. Donald did come highly recommended, but her condition stood. Should Donald change his mind about her reservations, she'd be happy to give the project to their firm. With that, she left, leaving Donald, Sunil and John speechless.

Points to Ponder on

- What kind of power does Donald have in this situation and how can he use it to do what he believes is right?

- From a strictly business perspective, is what Martha asking for wrong ethically?
- How will taking this project affect the trust and morale of Sunil? How will it affect Donald?
- What is the best course of action for all parties involved?

Activity

Divide the class in to pairs of two. One of them represents the company, which owns the plant while the other represents the housing society located near the plant.

Theme

XY Company manufactures chemical products. It has more than ten plants across the country. Recently, it received a notice from the government, due to a complaint from the neighboring housing society. The government received a complaint from the housing society that the waste from the plant is contaminating the surrounding air and water and directly affecting their society due to its proximity to the plant. The housing society has also mentioned that the reported cases of a certain fatal diseases have tripled in the last decade, since the establishment of the plant. The housing society comprises of 20 houses and is the only residential locality near the plant. Once the notice was received, the company contacted the government, and the government official said that the plant will have to be shut down till it is inspected, as the rules have become strict regarding emission. However, he said that the Government will take about two days to take action and has advised the company to sort the matter with the society so that the society retracts the complaint.

Notes for Company Representative

The company gave you the responsibility to sort out the issue. You do know that the plant does emit certain polluting substances. However, you are unsure of them being the cause for the diseases. If the plant closes, and if the inspection committee finds some issues (which you think they will), the company will face a total cost of ₹ 6–7 crore, including closure, changing the plant functioning and system. This will also tarnish the reputation of the company, which the company does not want.

The company wants you to settle the issue once and for all by buying all the houses. All the inmates of the housing society have also agreed to this deal. Only thing to be decided is the price. As per your information, the last house was sold at ₹ 8 lakh, 4 years ago. The current market price is ₹ 12 lakh per house but due to health problems in the society, people are not able to sell their house. You want to buy the society as well as want them to take their complaint back.

Notes for the Housing Society Representative

You have received the offer of buy out from the company. You know this is a good chance and all the members have agreed to sell off, as you are not getting any other buyers of the house, considering the health impacts of the plant. You do want the deal to go through, as this may be the only way to sell your houses. You also know that the company wants the deal to be signed and finalized, as they may face huge losses of around ₹ 8–9 crore if you don't take back the complaint. So, this is a good opportunity. You have received an offer of ₹ 10 lakh per house from a land broker. He said that he would earn by dealing with the company if you sell your houses to him. However, you want to crack the deal with company as it may fetch you more money. The market value of the house is ₹ 12 lakh.

Exercises

1. Multiple Choice Questions

- i. How can negotiators deal with the other party's use of deception?
 - a. Pose a question that forces them to tell a direct lie or else abandon or qualify the assertion.
 - b. Indicate to the other side that you know they are bluffing or lying.
 - c. Discuss what you see and offer to help the other party change to more honest behaviors.
 - d. All of the above
- ii. Which of the following statements is not included in Rokeach's definition of values?
 - a. We each possess values not only for ourselves, but also for others in our society.
 - b. Rokeach refers to values as 'enduring beliefs'. This indicates that values are stable. However, it is possible for values to change, as we continue to make decisions in which we have to put one value ahead of another.
 - c. There are two types of values: values that are end-states of our existence and values that are modes of behavior.
 - d. The values that we have for ourselves are the same as the values that we have for society.
- iii. The three main factors that affect a negotiator's personality are
 - a. cognitive ability, emotional intelligence and perspective-taking ability
 - b. affective ability, emotional stability and understanding
 - c. behavioral ability, perspective-taking ability and active listening
 - d. emotional intelligence, neuroticism and conscientiousness

- iv. Which of the following is a terminal value in Rokeach value survey?
 - a. Inner harmony
 - b. Ambition
 - c. Love
 - d. Honesty
- v. Which of the following is an instrumental value in Rokeach value survey?
 - a. Happiness
 - b. Freedom
 - c. Politeness
 - d. Social recognition
- vi. Which is the most influencing factor in planning stages of negotiation?
 - a. Cognitive ability
 - b. Emotional intelligence
 - c. Perspective-taking ability
 - d. All of these

2. True or False

- i. If being unethical during a negotiation helps attain rewarding outcomes, and if others do not punish the unethical conduct, the frequency of unethical conduct is likely to increase because the negotiator believes he can get away with it.
- ii. *Pragmatists* focus on integrative solutions; have high empathy and good listening skills.
- iii. Individuals are more willing to use deceptive tactics when the other party is perceived to be uninformed or unknowledgeable about the situation under negotiation, particularly when the stakes are high.
- iv. Individuals in a more individualistic culture (like the U.S.) are more likely to use deception for personal gain than those in a more collectivist culture (like Israel).
- v. Those looking to maximize their own outcome, regardless of the consequences for the others are less likely to use misrepresentation as a strategy.
- vi. Because negotiation is often primarily an exchange of facts, arguments, and logic between two wholly rational information-processing entities, whoever has better information, or uses it more persuasively, stands to “win” the negotiation.

3. Match the following

i.

a. Legitimate power	1. Relationship based source of power
b. BATNA	2. Power based on position in an organization
c. Referent power	3. Informational based source of power
d. Expert power	4. Contextual source of power

ANSWER KEY

- | | | | | |
|----|-----------------------|-----------|-----------|----------|
| 1. | i. d | ii. d | iii. a | iv. a |
| | v. c | vi. c | | |
| 2. | i. true | ii. false | iii. true | iv. true |
| | vi. true | | | v. false |
| 3. | i. a-2, b-4, c-1, d-3 | | | |

Exhibit 11.1

Power of BATNA

- ☐ Determine your BATNA.
- ☐ This is what happens when you don't make a deal; your alternatives.
- ☐ The more your alternatives, the more leverage you have in negotiation.
- ☐ Greatest source of power in negotiation.
- ☐ Develop your BATNA.
- ☐ Create a notional BATNA if you don't have a real one.
- ☐ Increases your confidence and directly affects how you do.
- ☐ Revealing your BATNA.
- ☐ Do not reveal your BATNA if it is poor.
- ☐ A strong BATNA should not sound like a threat.
- ☐ Determine the other's BATNA.
- ☐ If the other party has a poor BATNA, this gives you strength.

Exhibit 11.2

Power of Competition

- ☐ Whenever you create competition for something you possess, it moves up in value.
- ☐ This applies not only to products, money or services but also to something as abstract as an idea.
- ☐ Some negotiations are very important to one party but may have little importance to the other. In such situations, the competition could favor the party with the higher importance.
- ☐ Competition exists at every level and affects every negotiation in a direct or an indirect manner. Understanding the competition that exists and its likely effect on the balance of power between negotiators is part of the preparation process, and gives an edge to the negotiator who is better prepared.

Exhibit 11.3

Power of Legitimacy

- ☐ Printed words, documents and signs carry authority.
 - ◆ Be ready to use it if it is to your advantage.
 - ◆ Legitimacy can be questioned and challenged if it is not to your advantage.
- ☐ Legitimacy is extremely potent in our lives—tap its power.

- ❑ Precedence is a form of legitimacy.
 - ◆ You have leverage if you could demonstrate that something has been done before; there is a precedent.
 - ◆ Question a precedent if it is not in your favor.

Exhibit 11.4**Power of Risk Taking and Attitude**

- ❑ Risk-taking is a combination of courage and common sense.
- ❑ You must be willing to take risk while negotiating because if you don't, the other side can manipulate you.
- ❑ Know the odds and when much is at stake, always consider sharing or syndicating the risk involved.
- ❑ By spreading a risk so that it's on others shoulders as well as your own, you defuse and diffuse that risk.
- ❑ The right attitude matters. Why do you do a much better job negotiating for someone else than yourself? It's because you care too much about yourself. That puts you under pressure and stress. When you negotiate for someone else, you are more relaxed.
- ❑ For every negotiation, train yourself to consider: "If everything goes wrong, will it be the end for me?" Develop a fun attitude towards negotiation.
 - ◆ You'll have more energy, as you will have more energy for things you love to do like playing games.
 - ◆ You'll be under reduced stress.
 - ◆ You'll get better results, as your attitude will convey your feeling of power and mastery of your life.

Exhibit 11.5**Power of Commitment**

- ❑ By dispersing the overall risk, you can take advantage of propitious circumstances.
- ❑ Since your associates share the total anxiety and lend their support, your stress level is reduced.
- ❑ The shoulder-to-shoulder dedication of your group transmits awesome power vibrations to the other side.
- ❑ Involvement begets commitment, commitment begets power.

Exhibit 11.6

Power of Expertise

- ☐ When others perceive or believe that you have more technical knowledge, specialized skill or experience than them, they treat you with a consideration that ranges from respect to awe.
- ☐ Its important to be seen as the expert rather than just being one. One way to develop expertise is to listen actively and figure out the real needs of the other party. This would make them believe that you are an expert in understanding people.
- ☐ In all negotiations, there are two things being bargained for:
 - ◆ The specific issues and demands, which are stated openly.
 - ◆ The real needs of the other side, which are rarely verbalized.
- ☐ Understand the psychology of the individual and use it in a suitable context.
- ☐ When face-to-face with the other party:
 - ◆ probe, observe, and ask questions.
 - ◆ listen more than you talk and then, adapt your style to satisfy the real needs of the seller.
 - ◆ try to meet the real, non-verbalized needs.

Exhibit 11.7

Power of Investment

- ☐ Getting the other person to invest time, money and energy in the negotiation is a key factor in making an ultimatum work.
- ☐ There's a direct ratio between the extent of an investment and the willingness to compromise.
- ☐ People who have invested time, money or energy in a particular negotiation are more likely to offer concessions.
- ☐ Drawing out negotiations can help you gain this power, provided you have ample time at hand.

Exhibit 11.8

Power of Rewarding or Punishing

- ☐ Your perception that the other party can and might help you or hurt you—physically, financially or psychologically—gives them 'muscle' in your relationship.
- ☐ The actual/ factual reality of the situation is immaterial.
- ☐ For instance, a shortsighted salesman treats the boss's secretary as if she's an insignificant member of the team. A smart person knows she can often smooth his way or scatter broken glass in his path.

- ❑ No one will negotiate with you in any significant way unless they're convinced that you can and might help them or hurt them.
- ❑ In an adversary relationship, if you think the other party might help you or hurt you, they should never defuse your perception of their power unless they get something in return, such as a concession on your part or a repositioning on your part that truly benefits them or your relationship.

Exhibit 11.9**Power of Morality**

- ❑ The concepts of fairness of people around the world seem to be quite similar. Few of us can walk through life without feeling that what we're doing is for the good of mankind. That's why, if you lay morality on people in an unqualified way, it might work!
- ❑ Morality also helps since the other party can also identify with some elements of it. You will maximize your negotiating ability if you get others to identify with you.
- ❑ The power of identification exists in all interpersonal relationships including business transactions and politics.
- ❑ Identification also works in reverse. One person may be right on issues but might be such a bigot and so obnoxious that he/she completely turns off the rest of them.

Exhibit 11.10**Power of Persuasion**

- ❑ Persuasive capacity relies on the following three factors:
 - ◆ The other party has to understand what you are saying.
 - It's imperative that you put your reasons into analogies that relate to their experiences.
 - In order to do this, you must enter their world and understand them better
 - ◆ Your evidence must be so overwhelming that the other party can understand.
 - ◆ They should believe that you can meet their existing needs and desires.
- ❑ Thus, it follows the Aristotelian Rhetoric that you need to develop:
 - ◆ Ethos: Credibility in the eyes of the others on the subject that you are trying to persuade them on.
 - ◆ Pathos: An emotional connection rooted in feeling and passion.
 - ◆ Logos: Logical reasoning.



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