

Lesson 3

NEGOTIATION

Aim

Define negotiation and discuss the process of negotiation.

This is the process where two or more conflicting parties voluntarily discuss their differences and attempt to reach a joint decision on their common concerns. When individuals, groups, tribes or nations are in conflict, attention usually turns to communication, negotiation, mediation, intervention, facilitation, accommodation or arbitration. All these processes are attempts to limit destructive confrontation and violence. They can be endlessly defined and redefined, and given various shades of meaning, but they have a great deal in common.

Negotiation is a complex form of communication, as it:

- Occurs within a defined field; and
- Has a clear goal in reaching an agreement to a problem, even if the problem is not solved.

Good negotiators need to be able to:

- Listen constructively;
- Develop solid communication skills;
- Be able to teach those skills to others; and
- Communicate accurately and clearly, avoiding misinterpretation and misunderstanding.

So in the simplest of terms, negotiation is a discussion between two or more parties who are trying to find a solution to their problem. It is an inter-group or inter-personal process that can take place at some of the following levels:

- Personal
- Corporate
- International
- Diplomatic

Negotiations usually take place because the parties involved wish to create something new that they could not do along, or they wish to resolve a problem or dispute between them.

"Mediation is the facilitation of negotiation". Norman R. Page

Definitions

- Communication, which is an exchange of information, ideas or feelings.
- Negotiation, involving talking with others in order to reach an agreement.
- Mediation, an intervention between people or in a dispute to reach agreement.
- Intervention, which is an act of involving oneself in a situation to resolve a conflict.
- Facilitation, which aims to make the progress of a negotiation easier
- Accommodation, which is obliging or bring willing to help.
- Arbitration, which involves the hearing and settlement of a dispute by an impartial referee.

When groups negotiate, they will usually expect there to be some give and take. They may have related goals, that they cannot accomplish alone, but they usually do not want exactly the same thing. This interdependence can lead to a win-lose or win-win situation and the type of negotiations used will vary according to this.

The groups will either try to

- Force the other group into meeting their demands
- Modify their opposing positions
- Move towards a compromise
- Invent a solution that meets the objectives of all parties

Once negotiation has started, the attitude as well as the skill and experience of the negotiators will determine the particular success or failure of a session. In its crude form, negotiation can be seen as bargaining, sometimes even as a game.

One of the key causes of change is the mutual adjustment that can occur during a negotiation. Both parties will be aware that if they can influence the other party, then the other party can influence theirs. Effective negotiators will attempt to understand how people adjust and readjust their positions based on what the other group does or is expected to do. Parties may exchange information and try to influence each other. The process of making concessions and give and take is necessary for a settlement to be agreed upon. If one party is not willing to accept any proposals, there may be a breaking off of negotiations.

Conflict often arises between an "establishment" group (e.g. Municipal council, police or business management) and a "community" group (e.g. association of tenants, a workers' association or parents' committee). It also arises between two individuals where one or both parties wishing to tackle conflict issues. Negotiation is called for, sometimes urgently, but how can we start to arrange it? It is useful to begin by looking objectively at the nature of the two groups. Here are some of the main differences:

| The Establishment Group | The Community Group |
|--|--|
| Often a single entity (church, government department) | Often a group of autonomous organisations. Membership fluid and not always clearly defined. |
| A permanent institution | Usually a temporary or ad-hoc grouping of organisations |
| Stable | Stability can fluctuate |
| Clearly defined structure | Loose structure |
| Usually clear lines of authority (Can move outside formal structure) | Unclear power structure; shifts of power not uncommon |
| Usually capable of quick action | Action may require lengthy consultation with membership. Extended internal negotiation may be required before decision making. |
| Primary concern is usually with substantive programs (e.g. implementation of specific laws or regulations) | Often perceives issues in terms of justice, fairness and other beliefs related to human rights |
| More power and resources | Less power and resources |

The above comparisons provide a general background to the main problem, which is that of getting negotiation procedures started. It is also important to analyse the specific reasons why either or both parties are not willing or ready to come to the negotiating table in a specific situation. This will indicate the areas in which facilitative groundwork has to be done, either by members within the groups, or by third parties. Here are some of the reasons which may prevent constructive negotiation.

The Establishment Group

- Doesn't recognise the problem
- Doesn't recognise the seriousness of the problem
- Believes conditions will improve without negotiations
- Doesn't acknowledge the legitimacy of the protest group
- Doesn't trust the protest group
- Doesn't believe the protest group is representative of the community
- Doesn't believe the group can sustain the protest
- Lacks the political support necessary from its constituency to negotiate with this group at this time, on this issue
- Bad timing, overriding political concerns (imminent election contract renewal)
- Doesn't want to give up power or resources
- Would appear to be backing down if it agreed to negotiate
- Is bound by strong ideological background

The Community Group

- Needs time to build community support
- Needs protest activity to gain community support
- Needs time to heighten community awareness
- Hasn't finally decided on what is and what is not negotiable
- Internal dissension (power struggle for leadership)
- Personal agendas of leaders (fear of losing jobs or losing elections)
- Doesn't trust the establishment
- Wants to go to court for legal precedent
- Would appear to be backing down if it agreed to negotiate
- Bound by strong ideological principles

Bargaining in Negotiations

Within negotiations, there are two main types of bargaining:

- Integrative, including collaborative, win-win and creating value
- Distributive, including zero sum, win-lose, competitive and claiming value

| Distributive |
|---|
| <ul style="list-style-type: none">• One side wins, the other loses.• The interests of one party or group oppose the others.• The dominant concern is maximising your own interests.• Fixed resources to be divided, so one gets more and the other gets less.• Dominant strategies are used such as forcing, manipulation, withholding information. |

Integrative

- Variable amount of resources to be divided so can be a win-win situation.
- The dominant concern is to maximise joint outcomes.
- The dominant strategy will involve mutual problem solving and information sharing.
- The idea of creating value, as both sides leave the negotiations feeling they have had greater value than before.

Many situations will contain elements of distributive and integrative bargaining.

Win-Win Bargaining/Integrative Bargaining

When negotiating for a win-win situation, the negotiator must be aware of their attitude towards the negotiation, as they will play a huge part in the final outcome. They need a clear strategy of what is important and why it is important. The negotiator will also need to be aware of any alternatives to the most desired outcome for both parties, that is, other alternatives that they might accept.

The negotiator must, as always, also pay a lot of attention to the flow of the negotiation, using actively listening throughout. It is easy to think of a conflict situation as an isolated event. However, conflict is usually a process or a series of events that lead to the final conflict, such as psychological, social, external and internal factors. Conflicts are affected by what has happened before and these will affect the dynamics of the conflict negotiation.

Being a Skilled Negotiator

Differences

Skilled negotiators will look for differences. For example, a salesperson may need to reach a target by the end of the month. Therefore, the main aim of the salesperson will be to sell their product on the last day of the month. However, for the person buying the product, their main aim will be different. Their aim could be to get the best price or the best product for their needs. Either way, there is a difference in what the two parties want.

The negotiator will need to look for items that can be traded off against each other. For example, the negotiator could look at what is important to either side as well as what is more important to one side than another so that they are able to trade off items that are more important to either party. In the example of the salesperson, they may offer a 10% reduction on a product if the person wanting to buy the product will purchase it on that day.

Some terminology relevant to negotiation proceedings is as follows:

Non-specific compensation

This relates to one party getting what it wants in terms of one issue, whilst the other party gets compensation based on another issue.

Concessions

This refers to the offering of concessions on low-priority issues in exchange for concessions on issues that are more highly valued.

Cost-Cutting

This is where one party gets what they want in a negotiation, and the costs to the other party are eliminated or reduced.

Bridging

This is the concept that neither party achieves their initial demands, but there is an option that satisfies the major interests of both parties.

Additional Resources

This refers to the creation of additional resources, meaning that both sides can reach their main goal.

Once negotiations have started, the attitude as well as the skill and experience of the negotiators, will determine the success or failure of particular sessions. The selection of the negotiator or negotiating team is always difficult. For example, questions that may be asked include: Should a negotiator be a tough bargainer, or a friendly and persuasive person? There is, of course, no one set answer to this question, however, the best way to negotiate successfully is to maintain a constructive, firm and yet highly flexible attitude throughout the process and to persuade the other parties involved to adopt a similar stand. This is called the joint problem solving approach to negotiation.

THE JOINT PROBLEM SOLVING APPROACH

This approach to negotiation appears to provide the most fair and just alternative to violence in aggressively polarised societies or local communities. It is based on the following assumptions:

- Both parties are capable of competing, but wish to avoid large scale and/or violent confrontation.
- There is sufficient common ground to make consultation worthwhile.
- Some mutually acceptable program of changes can be found through honest discussion.

Assuming these points, the negotiation process should follow a series of logical steps, including as the following:

1. Define the problem, focusing on real needs rather than hard line attitudes. Allow plenty of time for questions and discussion.
2. Insist on using objective criteria. Work towards a solution that is based on principle rather than pressure. Principled negotiation means coming to decisions that are based on mutual respect, merit, and morals, so that an agreement will work in the long term.
3. Develop options which will achieve mutual gain. As a negotiator, you may believe that you know the best answer, but this attitude presents major obstacles. It leads to premature judgment, searching for the 'one and only' answer, and thinking that solving 'their' problem is 'their' problem. Perceptions of the conflict situation need to be broadened so that new, imaginative and creative solutions can be explored.

4. Discuss options. Try to find some common ground before bringing up difficulties. Modifications can then be suggested from both sides, so that the discussion will be constructive.

5. Select a preferred option.

Remember that throughout this process it is important that all negotiators do the following:

- Focus on the behaviour rather than the person
- Share information and ideas, rather than giving advice
- Be specific, rather than general
- Explore alternatives, rather than dictating answers or solutions.
- Discuss observations, rather than inferences.
- Be descriptive, rather than judgemental.
- Deal with the present behaviour rather than with abstract or "possible" behaviour

Characteristics of Effective Negotiating Behaviour

- Treating the other person with dignity and respect.
- Clearly and honestly stating your position and the reasons for it.
- Letting the other parties tell their stories without interrupting or judging.
- Listening with your full attention and trying to understand.
- Conceding that the other party may be just as sincere as you are, and may be right on some issues.
- Acknowledging that your position may not be totally correct (or even reasonable) and that the negotiators have organised a fair deal.
- Openly discuss interests, rather than simply stating positions.
- Focus on inventing options to satisfy interests.

The negotiator should have a wide knowledge of the background of the conflict situation. The more information the negotiator is able to acquire before the negotiation starts, particularly about the other party's plans, the better equipped they will be. They should spend time investigating the surrounding circumstances and collect unbiased opinions. The object is not to quote facts which will put the other group at a disadvantage, nor to create a critical climate, but to be prepared for the unexpected and not to overreact to it.

Writing a Brief

One of the negotiator's prime responsibilities is to present the group's perception of the conflict. When preparing a 'brief' keep these guidelines in mind:

- Be clear about what you want to say and what you don't want to say.
- Use words that are clear in conveying what is on your mind so that those listening will get the same picture.
- Provide actual examples to make your point.
- Separate what you think (assumptions and opinions) from what you know (facts).
- Encourage feedback. Check for understanding.
- Keep the talk centred on the main problem, not side issues.
- Try to make the other parties feel important and valued.

Guidelines for Negotiating

Sometimes you may sense that a climate of rejection is building up against you at the negotiating table. Consider how these guidelines could help to reduce a party's negative reactions.

- Don't abruptly disapprove or contradict someone's statement. Instead ask for clarification or additional information to support what was said.
- Find a point of agreement to build on rather than disagreeing. If you can't find something agreeable in the content of the discussion, agree with the feelings of the other person.
- Control any desire to gain the upper hand by showing up weaknesses in the other party's point of view. Do question points that are not supported by examples or facts when you notice them, but do so in a way that keeps the other party's self esteem intact.
- Use every opportunity to positively reinforce the other person's behaviour, ideas or actions.
- Remember that people want positive attention paid to what they say and do. They want acceptance of themselves and their ideas whenever possible.
- Rarely does anybody change their mind by being asked, told or directed to do so. If you want to influence the listener to see things differently, avoid using threatening language, verbal or nonverbal. By doing so, you can decrease the need for the listener to become defensive.
- Anticipate and take into account the factors that would influence the listener to resist; by empathising and knowing the other person. You can get to know others by being aware of: Their beliefs and how they look at the world, what makes them feel comfortable and confident, what throws them off balance, what kind of phrases get through to them and what things they do that are effective or ineffective.
- People resist others less and listen to them more because of credibility. Whenever possible, build your credibility through competence, knowledge, dependability, trustworthiness, energy and drive.

If negotiation discussions seem to be getting hopelessly bogged down, the following points may provide alternative strategies for getting past an impasse or deadlock:

- Ask for a break rather than threatening to walk out.
- Recap. Test whether change is possible.
- Express how you feel.
- Change the subject. Put the problem aside and try a new issue.
- Attempt to get to the meaning in principle and use broad statements about things in common, (e.g. we are here to negotiate, we need each other).
- Bring up a simple non-contentious issue on which you agree.
- Discuss alternatives that are available, from negative to positive.
- Make strategic disclosure of information.
- Ask a hypothetical question, structured carefully
- Draw a diagram of the differences, using blackboards and flipcharts, to show that differences are slight.
- Talk about past or future needs. Get away from the present.
- Move the location of the negotiation, change seating, or try standing.

Negotiation Mistakes

The following points describe some of the main mistakes that negotiators tend to make. Keep these in mind when negotiating:

- Poor use of questions. This can include having too few questions or failing to wait for another's answers.
- Having a lack of structure and mismanaging the presentation of issues, with a failure to realise that there are different phases in discussion of issues. Some of these are amenable to being resolved in one phase, others are not.
- Confusing the negotiation with debate, as debates often do not lead to a settlement but lead to increased resistance.
- Overreacting to stress.
- Rejecting alternatives.
- Not listening attentively.
- Not encouraging all members of the negotiating team to contribute.

The following points can be viewed as solutions to the above problems:

- Be creative in attempting negotiations and don't make hasty judgments.
- Avoid attempting to resolve major issues before gathering relevant information.
- Be attentive to potential problems associated with a proposed settlement.
- Classify issues into those which can be discussed substantially the outset; those that require more information; and those that may involve problems.
- Prepare in advance to deal with the problems that may arise in the negotiation.

Emotions

We discussed emotions briefly in the last lesson, but obviously emotions are an important aspect of any negotiating situation. All negotiations have two levels which influence the result of any negotiation:

- Substantive, involving rational decision making
- Emotional, involving psychological processes

Some emotional aspects to conflict may include:

- How important it is to win
- How comfortable each party feels about conflict
- How the parties perceive each other
- Assumptions made about the other group
- Trust
- How important it is to avoid conflict
- How much the parties like/dislike each other
- How important it is not to look foolish

Dealing with Difficult People

As we have already mentioned, conflict negotiations can be tense and emotional. The negotiator may have to deal with a range of different people, displaying different difficult behaviour.

The following table highlights techniques that can be useful in dealing with difficult people. Based on R. M. Branson, *Coping with Difficult People* (1981)

| | |
|---|--|
| People who clam up or are uncommunicative | <ul style="list-style-type: none"> • Ask open ended questions • Wait patiently for a response • If there is no response, tell them what you plan to do, because no discussion has taken place. |
| Complaining | <ul style="list-style-type: none"> • Listen to their complaints, acknowledge their feelings • Avoid complaining with them • State the facts • Use problem-solving skills |
| People who are very agreeable | <ul style="list-style-type: none"> • Be non-threatening • Try to find out why they will not take action • Make them aware you value them as a person • Be ready to negotiate and compromise, but do not allow them to make unrealistic commitments. • Try to find out any hidden meaning to their humour. |
| People who are very negative | <ul style="list-style-type: none"> • Do not let them drag you down. • Do not try to cajole them out of their negativity • Discuss the problem thoroughly, but do not offer solutions. • When given solutions, bring up negatives yourself. • Prepare to take action without their agreement. |
| Aggression and Hostility | <ul style="list-style-type: none"> • The negotiator should use assertive language and stand up for themselves. • Give the person time to say what they want, allow them to “run out of steam”, thereby avoiding a direct conflict. |
| People who stall and will not make a decision | <ul style="list-style-type: none"> • Ask why they are stalling about making a decision. • Try to remove them from the negotiation. • Ask for help if they are causing a lot of problems. |
| People who think they know it all | <ul style="list-style-type: none"> • Know-it-alls may try to bulldoze the negotiation. The negotiator should listen, paraphrase the main points and question any problems. • They may state their opinions as “reality”. Confront them in private. |

Finding a Solution

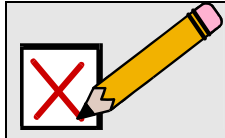
In working towards a long-term agreement, it is exceedingly important to find a solution that will satisfy both the conflicting parties, otherwise the peace that has been made within the negotiation will not last long. If one side feels cheated the ‘cease-fire’ will be used by the unsatisfied party to gather strength for the next challenge.

Ask the following three questions when a negotiation seems to be failing:

- Do we have a mutual interest in preserving the relationship?
- What opportunities lie ahead for cooperation?
- What costs would we bear if the negotiation were to fail?

In summary, the most important points to remember in successful conflict resolution are:

- Separate the person from the problem
- Search for alternative solutions
- Reflect on negotiations and learn from your mistakes and successes
- Bargain over interests, not positions
- Look for solutions, not defining problems.



SELF ASSESSMENT

Perform the self assessment test titled 'Self Assessment Test 3.1.'
If you answer incorrectly, review the notes and try the test again.

SET TASK

1. If you are able, attend a group meeting. This could be a workplace meeting, a local committee meeting, local council meeting etc. Take note of how the participants negotiate with each other. What tactics did they use? What tactics were most successful? Would you have handled the negotiations differently?
2. Watch a TV debate on the news or a current affairs program, or listen to a radio debate. (If you aren't able to tune into a formal debate, a discussion between politicians/bureaucrats and the program presenter is fine.) Watch and listen to how the debaters respond to each other, both in their verbal responses and their body language. What tactics did the most successful participant use? Why did the other side fail to impress? If you were a negotiator, how would you approach the situation?



ASSIGNMENT

Download and do the assignment called 'Lesson 3 Assignment'.