Affecting The Balance Of Negotiating Power

By Bob Meynardie

Are great negotiators born or can anyone acquire their skills? Every negotiator comes to the negotiating table blessed or handicapped by certain unchangeable circumstances. But all things being equal why do some negotiators achieve better results than others? Mediators have both a unique view of other people’s negotiations and serve a unique role in those negotiations.

After 14 years of mediating disputes, observing good and not so good negotiations, and studying the experts I believe that although some people may be better natural negotiators than others, every negotiator can learn to be a better bargainer.

This article will briefly explore some of the things that distinguish great negotiators. They include an understanding of the importance of style and preparation as well as specific skills and techniques that can be employed. Great negotiators not only understand these factors but also understand when and how to employ them.

Preparation | Every good advocate has researched the law, examined the facts, and educated their clients on probable outcomes if the matter is not resolved (what Fisher & Ury call their BATNA). A truly prepared negotiator, however, must go beyond this and analyze the alternatives for settlement not just the alternatives to settlement.

In “Practical Negotiating,” Tom Gosselin contends that negotiating “power is a function of alternatives.” Alternatives fall into three categories: (1) alternative sources, (2) alternative currencies, and (3) alternative skills and behaviors. The more alternatives a bargainer has the more power in the negotiation.

To understand alternative sources the negotiator must understand the difference between want and need. Preparation should also include an attempt to penetrate the opposing parties’ stated desires to find their true needs. Fisher & Ury suggest the parties should bargain based upon interests not positions. There are more ways to satisfy true needs, and a negotiator with more options for acceptable results has more negotiating power.

Alternative currencies refers to the identification of resources that have a higher value to the receiver than the giver and can provide win-win opportunities for resolution. Acknowledgement of regret or even an apology are great examples of alternative currencies whose value exceeds its cost.

Skills/Tactics | In addition, there are specific techniques that can lead to better negotiations. Some of the techniques are designed to foster understanding and promote win-win solutions, while others are designed to enhance the negotiator’s position at the expense of the other side.

For instance, brainstorming is a technique that is designed to identify better solutions for both parties. Brainstorming requires a commitment to identify as many possible solutions as possible without initially judging any of them. On the other hand, techniques such as stating extreme opening positions or the use of cascading levels of authority are designed to improve the allocation for one party at the expense of the other.

Finally, every good negotiator knows that each negotiation is unique. What is the trust level? Are there opportunities for mutual gain? Is there an opportunity for salvaging a long-term relationship? The skills and even the specific negotiating style should differ depending on the answer to these questions.

Conclusion | Few negotiators are fortunate enough to know the other side’s true power and therefore power in negotiating is really a function of the perception of power rather than actual power. Parties are in a much better position to affect these outcomes if they are truly prepared. There is power in preparation!

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