

A Survey of Negotiations

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A Survey of Negotiations: Its Evolution, Techniques and Success Stories

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First reading of the Emancipation Proclamation Before the Cabinet by Alexander Hay Ritchie

Agenda

- The changing face of negotiations:
 - Negotiation styles have changed over the past 50 years.
- Proven do's and don'ts.
- A survey of some of the greats:
 - Communication skills are key to success.

Negotiations

- Negotiating is a means of achieving one's goals in every relationship regardless of the circumstances.

- Critical points:

- A process, not an end in itself.
- Must have a objective goal to achieve.
- Interpersonal skills required.



Nothing New

- 10,000 years ago:
 - The Ice Age ends.
 - Farming begins.
 - First societies – now we need to get along.
- Most basic instincts – “fight or flight”:
 - Is the ability to negotiate innate?
 - No neuro-chemical trigger to negotiate.
 - Humans don’t like conflict.



Negotiation must be learned

Evolution of Negotiations¹

- Primal negotiations: 4,000+ years ago
 - Rivals between peoples and groups.
 - Thin line between negotiations and armed conflict.
- Strategic negotiations: 16th century
 - Conscious and intentional planning.
 - The understanding of motives.
- Rationalist negotiations: 18th century – Western Culture
 - For every problem, there is a truthful, justified answer.
 - Relationships matter – people are rational.
- Modern techno-rational negotiations: mid 20th century
 - Negotiations are a science.
 - Game theory: rationale choice paradigm.
- Post-modern rationally-irrationally negotiations: present
 - Rational “will” includes irrationally thinking.
 - Can’t ignore the “human” element.



¹ REFERENCE: *Natural history of Negotiations and Meditation*, by Robert Benjamin

Changing Face of Negotiations

- Scientific methods of conflict management and negotiations:
 - How do negotiations fit into “fight or flight”?
 - Neuroscience.
 - Cognitive psychology.
- Change to a “rationale model.”
- Increasing complexity of issues, programs, language:
 - Must have a basic knowledge of product and terminology.
- Increasing number of people on negotiating teams.
- Several practitioners/educators influenced the shape of negotiations.

Negotiations have become more complex and more sophisticated

Influencers

■ Gerard Nierenberg:

- The father of negotiations – The Negotiation Institute, 1966
- Book: 1968, *The Art of Negotiating*
- Principle: identify the needs of the other party as well as one's own needs in order to create more alternatives, by doing so – “Everyone Wins.”



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■ Chester Karrass:

- Chairman of largest negotiating training organization in the world.
- Book: 1970, *The Negotiating Game*.
- Principle: strong negotiating skills are the key to success.
- Strength of your agreements, understanding and relationship mean the difference between success and failure.
- Traits: planning skill, ability to think clearly under stress, general practical intelligence, verbal ability, product knowledge, personal integrity, ability to perceive and exploit power, confidence, high tolerance for ambiguity.

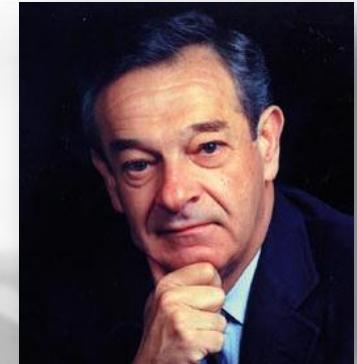


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Influencers

■ Herb Cohen:

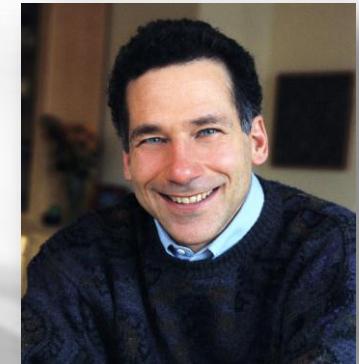
- Practicing consultant/negotiator:
 - NFL Players strike, GM litigation, START talks
- Book: 1982, *You Can Negotiate Anything.*
- Three crucial variables:
 - Power: the ability to get things done – can come from expertise, legitimacy, empathy, precedence, persistence, attitude, persuasion, unity of effort.
 - Time: side with the most time generally has an advantage. Patience pays. Don't ignore deadlines but don't follow them blindly.
 - Information: the more you know, the better your position. Do your research BEFORE negotiations begins.
- Negotiations are NOT a competitive sport. If treated so, yield is short-term gains; not long-term gains.
- Primary premise: treating one's counterpart as an opponent rather than as a partner in a collaborative process decreases the likelihood of reaching an agreement that contains the fundamental element of commitment.



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Influencers

- Roger Fisher and William Ury:
 - Roger Fisher (1922–2012): Harvard Law professor, assisted in Camp David Accords between Egypt and Israel, ending apartheid in South Africa.
 - William Ury: co-founded International Negotiations Network, mediator in Kentucky coal mine strikes, ethnic and civil wars.
 - Book: 1981, *Getting to Yes*.
 - Five propositions:
 - Separate the people from the position.
 - Focus on interests, not positions.
 - Invent options for mutual gain.
 - Insist on using objective criteria.
 - Know your BATNA – “Best Alternative to Negotiated Agreement.”



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3D Negotiations¹

The Latest Forward Thinking

■ David Lax and James Sebenius:

- David Lax: Managing Principal of Lax Sebenius LLC
Co-founded Harvard Business School's Strategic Negotiations course. Clients have included Guiness and Grand Metropolitan, Schlumberger, Verizon, etc.
- James Sebenius: Gordon Donaldson Professorship of Business Administration at Harvard Business School.
Co-founded Negotiation Roundtable. Member Council on Foreign Relations. Clients have included American Express, GTE, Shell, National Science Foundation as well as others.
- Book: 2006, 3D Negotiation, Powerful Tools to Change the Game in Your Most Important Deals.
- Premise:
 - Negotiations is not one dimensional, i.e., what happens at the table.
 - It is three dimensional – tactics, deal design, setup.



¹ REFERENCE: 3D Negotiation by David A. Lax and James K. Sebenius (Boston, MA: Harvard Business School Press, 2006)

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3D Negotiations¹

- 3D Negotiation is an approach to working with our customers and suppliers in order to grow and execute our business
 - Tactics
 - Deal design
 - Setup

Dimension	Nickname	Where	Focus	Sample Moves
First	Tactics	“At the Table”	People, Processes	Improve communication, build trust, counter hardball ploys, bridge cross-cultural divides
Second	Deal Design	“On the Drawing Board”	Value, Substance, Outcome	Invent and structure agreements that create greater value, meet objectives better, are more sustainable
Third	Setup	“Away from the table”	Architecture	Ensure most favorable scope (right parties, interests, no-deal options), sequence and basic process choices

¹ REFERENCE: 3D Negotiation by David A. Lax and James K. Sebenius (Boston, MA: Harvard Business School Press, 2006)

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3D Negotiations Process¹

Visualize/Commit

Prioritize/Characterize

Improve/Achieve

Define the Deal Objective

Conduct Stakeholder Analysis

Conduct Barrier Analysis

Define Strategy

Execute Strategy

- What do we want and/or need?
- Who are the key stakeholders?
- What are their interests?
- What are their “no-deal” positions?
- Who are the other parties that can affect the outcome?
- Who are the decision makers vs. influencers vs. potential blockers vs. implementers
- What are potential barriers to the deal?
- What are possible solutions to the barriers?
- How do we structure a deal to create or maximize stakeholder value, nullify “no-deal” positions?
- Who do we need to engage and in what sequence?
- What are our potential “moves” or “plays”? In what order should they be made?
- What negotiation tactics will we use?
- Engage stakeholders to remove barriers, create allies
- Execute negotiating tactics
- Make the deal

Business capture, contract changes, performance issues, R&O management

¹ REFERENCE: 3D Negotiation by David A. Lax and James K. Sebenius (Boston, MA: Harvard Business School Press, 2006)

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Classic Do's and Don'ts

- Plan and prepare, plan and prepare, plan and prepare:
 - What do we want, long and short term? Same for the other party.
 - Create a plan and an agenda.
 - Knowledge is power! Do your homework.
 - Who, what, when and where?
 - Practice: mock negotiations are a great tool.
- It is all about integrity and trust:
 - Don't play games.
 - Treat your counterpart as a partner, not an opponent.
 - Don't lie! (That includes "bending the truth").
 - Offer and expect commitment.
- Leave the drama at the door!
 - Don't continue to negotiate when you lose control of your emotions or become irrational.
 - Personal relationships are critical – know your counterpart personally.
 - Select your team carefully, not everyone is meant to be at a negotiating table.



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Classic Do's and Don'ts

- Communicate, communicate, communicate:
 - That includes listening – that is how you learn.
 - 70/30 rule: listen 70 percent of the time, speak 30 percent of the time.
 - Use open-ended questions, not ones that can be answered by “yes or no.”
 - Silence is a great tool.
 - Be articulate – don’t mumble.
 - Remember not everyone is in your generation – don’t use slang:
 - Different generations have different concepts of negotiations.
- Control the negotiation process:
 - Don’t go down ratholes that have no bearing on the negotiations.
 - Manage your time – don’t spend excessive time on trivial matters.
- Don’t let time drive the negotiations if at all possible.
- Use documents to substantiate your position:
 - Make sure you can justify your position.
 - An engineer stating he knows best is not good enough!
- Don’t try to talk about something you don’t know about – get the expert.
- Make sure in the end that both parties have the same understanding of what you have agreed to – in detail and jointly document it!



The American Way¹

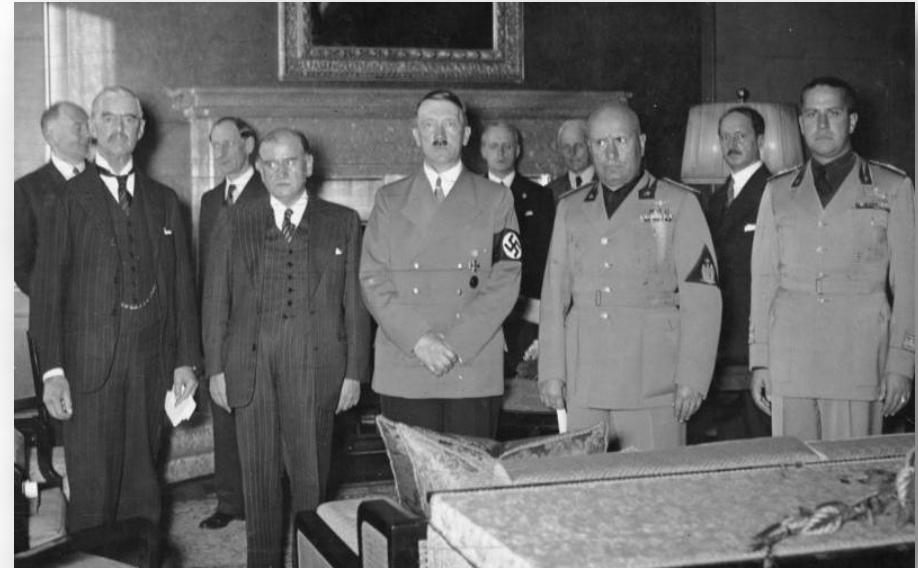
- Americans have a unique manner of negotiations, good and bad:
 - Relatively new to international negotiations, since World War II.
 - Importance of international negotiating skills is increasing exponentially.
- The Good:
 - Optimistic by nature.
 - Commitment to finding the “win-win” solution.
 - Not afraid to make a mistake.
 - Look at negotiations from a personal point of view, not family:
 - How will this reflect on my family? (not an American perspective).
- The Bad:
 - Absolutely NO patience.
 - Deficient in language skills – prone to error.
 - Low level of knowledge about other countries.
 - Self-centered: U.S. is the center of the universe.
 - Underestimate the importance of cultural differences.
 - Focus more on the deal rather than the relationship.

¹ REFERENCE: *The American View of Negotiation*, by John D. Stempel

Historically Speaking

The Munich Agreement – a Dark Spot in the History of Negotiations

- 1938 negotiations between Germany, France, U.K. and Italy.
- Agreement (Sept. 30, 1938): concede the Sudetenland portion of Czechoslovakia to Germany in return for Germany to cease its European expansion.
- Neville Chamberlain, U.K.'s Prime Minister, attributed to using appeasement as a method of negotiations – avoiding war by making concessions.
- Webster's definition of appeasement: "to buy off by concessions at the sacrifice of principles."
- Footnote: Czechoslovakia was not at the negotiating table.
- Results: Hitler's Germany invaded Poland on Sept. 1, 1939.

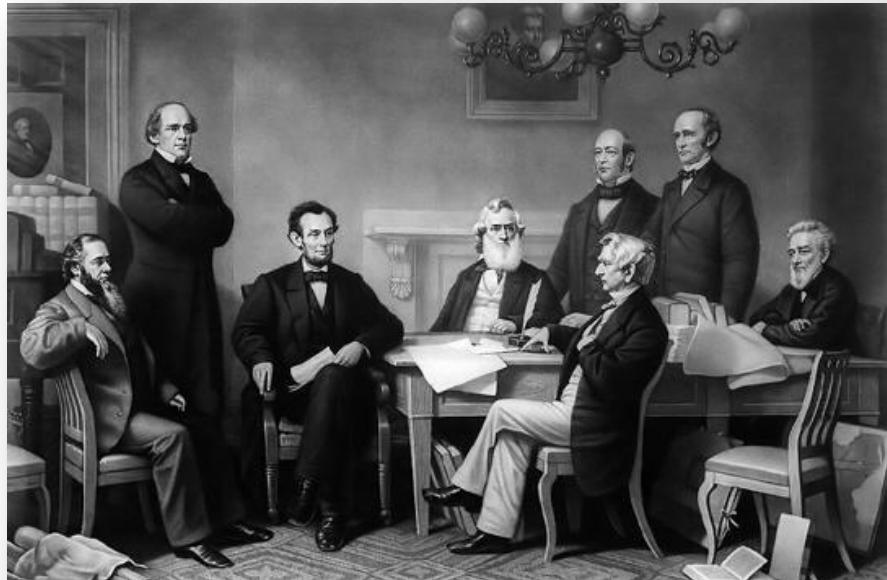


What principles of good negotiations were violated?

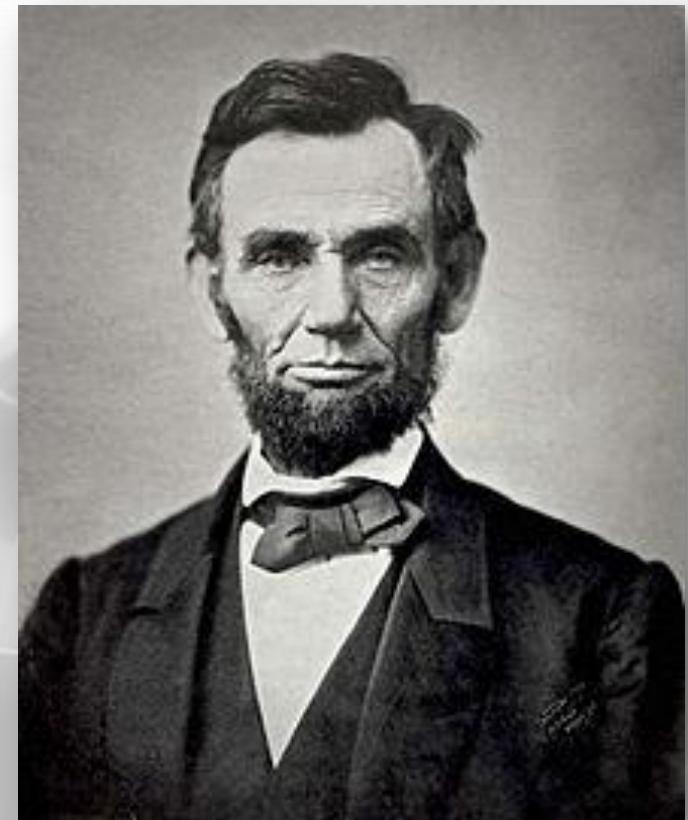
Abraham Lincoln

■ Abraham Lincoln

- Who: 16th President of the United States
- Issue: Abolition of slavery, end to the Civil War



Lincoln Video



Lincoln and the Civil War

- Presided over the most critical, emotional and challenging issues in the history of the United States.
 - The end to the Civil War and the abolition of slavery — two diametrically opposed issues.
- Clearly had a mission and a purpose¹:
 - Reunite the United States.
 - Abolish slavery — and set a precedence for the rest of the world.
- Focused and rose above the mental clutter¹.
- Created vision in those who lacked it – Thaddeus Stevens¹.
- Made his opponents feel comfortable¹.
- Won over his rivals²:
 - Attorney General Edward Bates
 - Secretary of Treasury Salmon P. Chase
 - Secretary of State William H. Seward

¹ REFERENCE: James Camp, *Forbes Magazine*, Four Negotiating Skills We Can Learn From Lincoln, Dec. 10, 2012

² REFERENCE: Doris Kearns Goodwin, *A Team of Rivals*, 2005

JFK and the Cuban Missile Crisis

- John F. Kennedy
 - Who: 35th President of the United States
- Issue: Cuban Missile Crisis
- At stake:
 - Preservation of the world
 - Egos — who was the true superpower?
- What did we learn?
 - Buying enough time—the military blockade was in fact the first and foremost way to buy time.
 - Explored options to avoid war.
 - Looked at the interests of the other party – Jupiter missiles in Turkey.



Kennedy Video



¹ REFERENCE: Mark Thompson, *Battleland Website*, “50 Years Later: The Lessons of the Cuban Missile Crisis, Oct. 22, 2012,

Bottom line: “Never negotiate from fear; and never fear to negotiate.” A skillful negotiator can engage in dialogue without making any concessions on fact or with regard to his or her interests.¹

Conclusion

- Negotiations have evolved significantly over time, moving from a real-time physical intimidating exercise to one of intense planning and mental finesse.
- Long-term methodical planning needs to be accomplished ahead of negotiations defining the long-term objectives of all parties involved.
- It is more than mutual concessions or worse appeasement. We must realize that negotiations are a rational process but with a natural tendency to have irrational moments which must be appropriately managed.
- Listen!
- Above all, build trust and negotiate with integrity!

Learn More

Websites:

www.negotiatingedge.com
www.negotiatingskills.com
www.herbcohenonline.com
www.negotiate.com
www.negotiation.com

Books:

2006, *3D Negotiation, Powerful Tools to Change the Game in Your Most Important Deals*, David Lax and James Sebenius
1991, *Getting to Yes*, William Ury and Roger Fisher
1982, *You Can Negotiate Anything*, Herb Cohen
1970, *The Negotiating Game*, Chester Karass
1968, *The Art of Negotiating*, Gerard Nierenberg
2006, *Team of Rivals*, Doris Kearns Goodwin