Late negotiating expert still has much to teach us

By Marty Latz
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Harvard Law Professor Roger Fisher, a giant in the negotiation field who co-wrote the bestseller *Getting to Yes: Negotiating Agreement Without Giving In*, passed away last week. As someone who studied under him and who still teaches his core concepts, I believe it’s worth reiterating them.

1. **Separate the People from the Problem**

Fisher taught that negotiations fundamentally represent an opportunity for parties to sit down side-by-side to mutually resolve their problems. And a critical component of this revolved around parties’ ability to establish productive working relationships with each other and separate the people involved from the problems they faced.

At a base level, Fisher recognized that parties often get distracted by assumptions and miscommunications involving the people and personalities at the table. By doing so, they end up going down counterproductive paths and never fully exploring how to address their mutual problems.

Fisher’s advice? Separately address these two critical elements.

An example of this occurred in connection with the 1985 summit between President Ronald Reagan and Soviet leader Mikhail Gorbachev. Prior to the summit, Fisher helped convince Reagan’s staff that setting a specific agenda for the summit was less important than activities like joint brainstorming, which was focused on building the parties’ relationships.

2. **Focus on Interests – Not Positions**

Fisher and his co-authors Bill Ury and Bruce Patton in *Getting to Yes* tell of two men in a library arguing about whether to close a nearby window. One wants it open, the other wants it closed. Seems like irreconcilable positions – until the librarian asks each why they want it open or closed. One answers that he wants fresh air, and the other answers that he dislikes the draft.

The librarian then closes the window, walks into the next room and opens that window – providing fresh air and eliminating the draft.

This classic example illustrates the power of exploring interests (why you want something) versus positions (what you want). Arguing over positions will often lead to deadlock and frustration. But if you can elicit the true interests underlying a party’s position, it often leads to creative options satisfying all the parties’ interests. That’s a real win-win.

3. **Insist on Objective Criteria**

Of course, important interests do conflict in many negotiations. And you can’t always find ways to satisfy everyone and expand the proverbial pie. Sometimes you just must find a way to cut up the pie in a way that everyone finds acceptable. Fisher here recommends you “insist on objective criteria” that provides an independent, credible principle underlying your solution.
Instead of simply saying “I want this or else,” say “I want this because it’s market value based on this appraisal,” or “because it would be unprecedented to provide an employee at your level with stock options,” or “because it is only 5% above our cost and we need to make some profit,” etc.

4. Develop your BATNA (Best Alternative to a Negotiated Agreement)

I used to think traditional notions of power – like wealth, market share, military might, etc. – automatically translated into negotiation power.

Fisher taught me this is not true. Instead, Fisher taught that negotiation power primarily derives from having a really good alternative to doing a deal with the other side. The better your alternative, the stronger your leverage. And vice versa.

The world’s biggest company might have weak leverage if it really needs you and can’t get your product or service anywhere else (thus it has a really bad BATNA, or best alternative to doing a deal with you).

Likewise, a large financial institution on the edge of bankruptcy might have strong leverage with the government if the government’s alternative to bailing it out (it’s BATNA) is a crash in our economy.

Fisher will be hugely missed. But his contributions to the field live on through the millions who put these ideas into practice.

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