



back to basics

Getting past no

In his book “Getting Past No: Negotiating with Difficult People” (1991), William Ury provides a model for negotiating that sums up and incorporates many of the communication themes presented below. Ury’s negotiation model includes five steps the negotiator should be aware of and focus on during the negotiation process. If a negotiator learns, practices and adheres to Ury’s model, the negotiator will handle the most difficult situations with confidence and success.

Go to the balcony

Step one is “Don’t React — Go to the Balcony.” That is, the negotiator should view negotiations as if he or she were a third party observing what was happening. Ury uses the analogy of being an actor in a play and standing on a balcony overlooking the stage and watching the action. Very often, the hostage-taker will (whether intentionally or unintentionally) say or do things to produce an emotional reaction from the negotiator. He may refuse to budge on a position (put up a stone wall), threaten some harsh consequences if the negotiator does not do what he wants (attack), or attempt to trick the negotiator into giving in to some demand. The negotiator should recognize these tactics and expect them to occur.

The natural reaction to these tactics is to strike back, give in, or break off negotiations. That is, there is a tendency to make an emotional response to these tactics. The negotiator who recognizes the tactics will be able to counter them and continue negotiating in a reasonable manner. The negotiator who does react will become emotional and lose sight of the objective. This negotiator will become engaged in a personal “war” with the hostage-taker and will not negotiate objectively for incident resolution.

Ury (1991) suggests that when these tactics are used, the negotiator should “keep his or her eyes on the prize.” The

negotiator should focus on why he or she is negotiating, stay focused on the goal, and identify his or her BATNA (Best Alternative To A Negotiated Agreement). The BATNA is the maximum trade a negotiator can get at any one point in negotiations. The BATNA will change as the situation and circumstances change, and the negotiator should constantly assess the BATNA in light of the situation’s changing dynamics.

When the hostage-taker uses emotional tactics, the negotiator can do several things to reduce his or her emotional response and reduce the emotions of the hostage-taker. The negotiator should buy time to think. The negotiator can do this by utilizing pauses, rewinding the tape or taking a time-out. Rewinding the tape refers to acts such as rephrasing what the hostage-taker said in non-emotional terms or writing down the conversation to slow emotions (“Excuse me, I am writing down what you said so I won’t forget it”). Also, the negotiator should not make important decisions hastily. The negotiator should say, “I will need to check with my commander and get back to you.” This does three things for the negotiator. First, points of information can be checked for accuracy. Second, the negotiator and command personnel can think through the decision. Third, the negotiator can reflect and make sure perspective on the situation has not been lost (Fisher et al., 1991).

Ury’s five steps to successful negotiations

1. Don’t react — go to the balcony. Negotiator should view negotiations from a third party observer point of view. Don’t react emotionally.
2. Step to their side. Make the hostage-taker an ally.
3. Change the game. Don’t reject, reframe. Get the hostage-taker to talk about the problems, not the police.
4. Build a “Golden Bridge.” Make it easy for hostage-taker to say yes. Remove obstacles and replace them with a “bridge” of yes-es.
5. Make it hard to say no. Focus the hostage-taker on the consequences of his lack of agreement; continue offering him a way out.

The negotiator should not get mad, not get even, but instead get what he or she wants. The negotiator must control his or her behavior and emotions, and dispassionately listen and converse with the hostage-taker. Nothing can be taken at a personal level or the hostage-taker has gained the upper hand in negotiations.

Step to their side

Step two of the Ury system is to disarm the hostage-taker and step to his side. When hostage negotiations open, the negotiator is rational and calm. The hostage-taker, however, is distraught, frightened and angry. Before negotiating, the negotiator must help the hostage-taker regain his emotional balance. Just as important, the negotiator must make the hostage-taker an ally. The hostage-taker must realize that the negotiator is in the

situation with him, not against him. Ury suggests five strategies to reduce emotions in the hostage-taker and make the hostage-taker an ally.

The negotiator must listen actively to the hostage-taker. The negotiator must listen to his point of view and must understand that point of view. The good negotiator does more listening than talking. The negotiator not only must listen actively, but also must demonstrate to the hostage-taker that he or she is listening actively by paraphrasing and asking for corrections. The negotiator should “acknowledge the point” and recognize the hostage-taker as a person (one way is to acknowledge the hostage-taker’s feelings, such as “I appreciate how you feel”). This does not mean or imply that the negotiator has to agree with what the hostage-taker has done. The negotiator should work on finding opportunities to agree with the hostage-taker and find common ground to lead into more difficult subject areas. Sports, weather, anything at all that can be shared by the two parties will set the stage for later agreements. This does not mean the negotiator has to concede to the hostage-taker or agree with what the hostage-taker is doing. The negotiator should accumulate positive responses. Put the hostage-taker in an agreeable mood and a “yes-saying” frame of mind. One good way to accomplish this is to frequently rephrase the hostage-taker’s statements and then ask, “Is this what you meant?” The negotiator should match the communication patterns and sensory language of the hostage-taker. If the hostage-taker speaks slowly, or uses local idioms, or uses street slang often, the negotiator should follow suit and use similar language. If the hostage-taker says, “Do you *see* what I mean,” the negotiator should reply in the same sensory modality (“Yes, I *see* what you mean”).

The negotiator should acknowledge the person not as an adversary, but as a colleague. The negotiator can do this by first building a working relationship. The negotiator should not open communications by attempting to resolve issues or obtain lists of demands, but by

making small talk to establish common ground and show the hostage-taker that he matters as a person. The negotiator should flatter the hostage-taker’s ego and competence (“You seem like you are really capable of taking good care of the children.”)

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The negotiator should express his or her views without provoking the hostage-taker. Most people negotiate with an either/or mentality. The best negotiator will use a both/and mentality. As Ury says, “don’t say ‘but,’ say ‘yes . . . and.” The negotiator should not say, “I know you are getting thirsty, but we need a show of faith on your part.” The negotiator should instead say, “Yes, I understand you are getting thirsty, and I want to work with you to satisfy our needs.” What the negotiator should do is add to his statement. The negotiator should use “I” statements, not “you” statements. They should place a different perspective on the problem. The negotiator should recognize the differences between his or her position and that of the hostage-taker (because they do have different positions), but he or she should do so optimistically (“I know this is difficult, and I know we can work it out”).

Change the game

The third step in Ury’s model of negotiations is to change the game; don’t reject, reframe. In hostage negotiation situations, the hostage-taker often will spend much time berating, belittling or attacking the negotiator and the police. The negotiator’s objective is to get past this point and have the hostage-taker present the real issues and work on solutions. The negotiator must get the hostage-taker to talk about the problems, not the police.

The negotiator must direct the hostage-taker’s focus back to the problems

of resolving the hostage incident. One way for the negotiator to do this is to ask problem-solving questions: “Why?” “Why not?” and “What if?” The negotiator must determine what motivates the hostage-taker and present opportunities for the hostage-taker to solve the problem

(“Why will taking the kids to Canada solve the problems with your ex-wife?”). If the hostage-taker is reluctant to answer “why?” questions, the negotiator could rephrase the question in a “why not?” format (“What would be the problem with discussing your visitation rights with another lawyer who may be more experienced in family matters than your first lawyer?”). The negotiator could even assist the hostage-taker in exploring all possible solutions to the problem (“Well, moving to Canada is certainly one option. What if, however, you were to do . . .”). The negotiator should ask open-ended questions. This makes the hostage-taker think and formulate options on his own.

What if the hostage-taker builds a stone wall? That is, the hostage-taker makes his demands and says, “take it or leave it.” The negotiator could ignore the stone wall and keep negotiating as if the ultimatum were never presented, reframe the stone wall as a positive (“We would hate to see that happen so we better quit worrying about the tactical team and get to work on solving your problem”), or test the stone wall and simply let the deadline expire, either by ignoring the deadline or talking through it.

When being attacked, the negotiator should reframe the attack into a future solution or a common problem. The hostage-taker may be talking about past “injustices” suffered at the hands of the police. Rather than dwell on those, the negotiator could say, “I am terribly sorry you had experiences with a few bad apples. What can we do so that it never

happens again?" The negotiator should also insert him or herself into the problem and the solution.

Change from "you" and "me" and use "we." Fisher et al. (1991) refer to deflecting personal attacks as "negotia-

The negotiator should involve the hostage-taker in the decision-making and make negotiations seem like a partnership.

tion jujitsu." Personal attacks must be retranslated into issue problem-solving. If the hostage-taker says, "I get the food before hostages are released. What's the matter? You don't think I'll live up to my word?" The negotiator might respond with the following deflection; "I appreciate your working with me on this. The issue is not about trust. The issue is the principle: Can we make the swap so both of us are satisfied? What if both happen at the same time? You have the person step to the door, pass the food in, and then leave." The negotiator has retranslated, offered a workable solution to the dilemma, and given the hostage-taker the decision.

If the hostage-taker attempts to use tricks, the negotiator should respond as if negotiations were progressing in good faith. The negotiator could ask clarifying questions to expose the tricks. Do not challenge the hostage-taker, but rather act confused ("I'm confused. I thought I understood you to say earlier that if we provided you some food you would let one of those people go.")

Build a "Golden Bridge"

The fourth step in Ury's model of negotiating is to build the hostage-taker a "golden bridge," or make it easy for him to say yes. The hostage-taker may say no for many reasons. Decisions are not his idea, all his needs have not been fulfilled, he will lose face and negotiations move too fast. The negotiator must remove these obstacles and replace them with a "bridge" of yes-es.

Ury claims that too many negotiators force the hostage-taker to agree, rather than getting the hostage-taker on their side and then working with him to reach agreements that ultimately lead to a safe resolution. The negotiator should involve

the hostage-taker in the decision-making and make negotiations seem like a partnership. The negotiator should solicit the ideas of the hostage-taker, select the most constructive of these ideas and build upon them. The negotiator should also work with the hostage-taker in criticizing those ideas and getting the hostage-taker to realize the problems inherent in those ideas. ("Let's explore the idea of driving to Canada. What are the problems you see in taking that course of action?"). If the hostage-taker is resistant to the negotiator's suggestions, the negotiator should ask, "Well, what problems do you see with that idea?" Finally, the negotiator could present alternatives from which the hostage-taker can select.

One of the major issues at the Oakdale, Louisiana prison siege was that the negotiators rapidly met the material demands of the hostage-takers, yet the incident worsened. The negotiators did not satisfy the internal needs of the hostage-takers (Fuselier et al., 1989). The negotiators moved too fast and did not recognize the emotional needs of the hostage-takers. In addition to the demands the hostage-taker makes, that hostage-taker also has unstated needs of security, recognition, saving face and control over his own fate. On some occasions, what the negotiator perceives to be an emotional outburst is merely the hostage-taker crying out for recognition. The negotiator should view the situation from the hostage-taker's perspective. If the negotiator can do this, he or she can make high-benefit, low-cost trades ("I'll back the tactical team off if you release

one of those people" — low-cost because the tactical team will still be in position, high-benefit because a hostage is released).

The negotiator should "go slow to go fast." Negotiations are a process of small steps and frequent pauses. The negotiator cannot make one big leap and dash to the end zone. One common mistake that novice negotiators make is to open negotiations by arguing for the release of hostages (notice argue, not ask for—an important distinction). The negotiator should begin accumulating yes-es by getting agreement on areas of common interest and small requests and working up to major concessions (Brett, 1991). Another common mistake that negotiators make is that they tend to rush when

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they sense a resolution is close. When the end is in sight, the negotiator should slow down even more, review agreements and explain exactly what will happen during the resolution phase.

One area negotiators often do not recognize or completely ignore (and an area that can forestall or prevent resolution) is the hostage-taker saving face. The hostage-taker is a person who has ego needs, dignity and a need to be respected. The resolution of the incident is where

the hostage-taker loses face. If a crowd of civilians is watching, or if relatives are present, or if the incident is a media event, the hostage-taker may refuse to resolve the incident only because he fears losing face. The negotiator must satisfy this ego need to get resolution. Many hostage-takers have surrendered, in fact, simply for a promise to not release their name to the media. Conversely, the negotiator can help the hostage-taker write a "victory speech." The hostage-taker may make a demand or request the negotiator cannot fulfill (and this demand or request will resolve the incident). The negotiator may tell the hostage-taker: "I can't do that, but you can tell everyone I did and you refused."

Make it hard to say no

The fifth negotiating principle advanced by Ury is making it hard to say no, or "bring them to their senses, not their knees." When the hostage-taker refuses to concede or surrender, the negotiator becomes frustrated. There is a natural tendency for the negotiator to assert authority and rely on his or her position of power (after all, this works on the street). This is when the negotiator "orders" the hostage-taker to do something. In many negotiating situations, it will be necessary to negotiate from a position of power. This is acceptable, but only when power is used correctly.

The negotiator should use power sparingly, not unilaterally, and should use his or her power to educate the hostage-taker. The negotiator should focus the hostage-taker on the negative consequences of not agreeing or negotiating. The negotiator should do this by getting the hostage-taker to realize the consequences of his lack of agreement. The negotiator can ask reality-based questions such as, "What do you think might happen if we don't work out a resolution?" "What do you think the tactical team will do if you hurt one of those people?" "What will happen to you if the tactical team assaults?" Questions of this nature are not a threat to the hostage-taker; they serve to warn the hostage-taker of possible consequences. The hostage-taker

is given the impression that he is making decisions and controlling his own fate. The negotiator may even demonstrate his or her BATNA by allowing the hostage-taker to observe the tactical team preparing for an assault.

Using the negotiator's BATNA may force the hostage-taker to negotiate and begin to agree on issues. The negotiator should be careful to not abuse his or her power, however. The purpose of using the BATNA is simply to show what could occur. The negotiator should use the minimum power necessary to reach agreement. This situation is analogous to a sports team "running up the score" on

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their opponents. They not only defeat the opposition, they embarrass, humiliate and make enemies of the opposition. At some point, the opposing team will get revenge. The purpose of negotiation is to resolve the incident safely, not to humiliate the hostage-taker.

When a hostage-taker refuses to negotiate, the negotiator should continue to offer the hostage-taker a way out. That is, the negotiator should leave the "bridge" open for the hostage-taker to cross. The hostage-taker may not realize he has a way out of his predicament (and that is why he refuses to negotiate). He may believe, for example, that the act of taking his estranged children hostage may completely ruin all visitation rights. The job of the negotiator now becomes that of convincing the hostage-taker that visitation rights can be regained, but only if the hostage-taker works with the negotiator. Let the hostage-taker decide upon the terms of visitation ("If nobody gets hurt, you probably won't lose any visitation rights. The choice is yours, however.")

Once the hostage-taker agrees to negotiate concessions, the negotiator should continue to make it hard to say no. The hostage-taker, for example, could agree to surrender and at the last second get scared and refuse to come out. The negotiator should structure the agreement so any risk is minimized. Hostages should be released before the hostage-taker surrenders. The negotiator can also make it difficult for the hostage-taker to renege on any concessions by making it difficult to back out. One way to accomplish this is to tell others about the agreement, or have the hostage-taker tell others (i.e., hostages).

At the conclusion of negotiations, the hostage-taker should be as satisfied as possible. He should feel he made the choice, he is a person, his dignity is restored, and he can save face. The negotiator can accomplish this by leaving flexibility in the surrender ritual. Let the hostage-taker decide how to surrender, who drives him to jail, etc. Remember, the purpose of negotiation is not to win, but to leave everyone satisfied. ◀

References

Ury, W. (1991). *Getting Past No: Negotiating with Difficult People*. New York, NY: Bantam Books.

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