
What Roger Fisher Got Profoundly Right: Five Enduring Lessons for Negotiators

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Introduction

From the start of my academic engagement with negotiation in the late 1970s, I have grappled with, contested, and profited from the ideas of Roger Fisher and his many coauthors. When I succeeded Roger as director of the Harvard Negotiation Project a few years ago, I reflected anew on what I had learned over the years from this intense, opinionated, confident, entrepreneurial, and optimistic law professor, whose tall, lean frame and ageless features personified “getting to yes.” With his passing in 2012, some of the many valuable lessons Roger taught, directly and by example, have crystallized in my thinking. In a recent *Harvard Law Review* (Sebenius 2013) article, I admired several ways that Roger’s career modeled how an academic, especially in a professional school such as law or business, could make a significant, positive, and lasting difference in the world. Before delving into what I judge to be five of his most important lessons for negotiators, I briefly review here some of these aspects of his singular career — out of which he developed his core ideas.

First, I admire how relentlessly, fearlessly, and constructively Roger waded into high-stakes, high-profile negotiation challenges throughout his career. By staying close to the phenomenon itself, which consistently informed his work, Roger was able to ask better questions and to formulate more valuable answers. His notable success in several such situations enhanced his personal credibility and as well as the credibility of his ideas.

Second, I admire how Roger sought to combine his own challenging negotiation and conflict resolution insights with theory from several disciplines, especially cognitive and social psychology, to generate intellectual capital that offers real value in practice.

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Third, I admire how the corpus of Roger's works, as expressed in many books coauthored with many colleagues, could be much better understood as a long-term evolving *project* around a unifying theme — interest-based, problem-solving negotiation — rather than as a series of one-off products on different topics.

Fourth, I admire how coauthorship with a remarkable series of mostly younger colleagues served a powerful mentoring role and further developed Roger's core project, both directly and through the independent works his collaborators have since produced.

Fifth, I admire how Roger's individual and coauthored works are blessedly brief, plainspoken, and dense with accessible examples. These books derive much of their power from tight organization and ruthless editing around a few, carefully crafted, pithy pieces of advice. This advice often expresses powerful truths, simply, concisely, and memorably.

Sixth, I admire how these characteristics of Roger's books helped them to be widely read both by popular and academic audiences. Indeed, the more than *eight million* copies of *Getting to Yes: Negotiating Agreement without Giving In* (1981, 1991) sold in more than thirty languages — let alone Roger's many other books — helped to dramatically raise the salience of and to develop negotiation as a field of scholarship and teaching.

Finally, I admire and am grateful for Roger Fisher's pivotal role, particularly through his written work, in helping to create and nurture living institutional legacies, both the Harvard Negotiation Project and the Program on Negotiation, long-lived efforts that truly cross the boundaries of disciplines, departments, schools, and universities.

Admirable aspects of his career notwithstanding, what *are* Roger's core contributions to the content of negotiation research, theory, teaching, and practice? Substantively, what did this remarkable man bequeath to the field?

To answer these questions, I contemplated how my own intellectual trajectory, along with those of other colleagues, has been influenced by him and his work. I also reviewed a subset of Roger Fisher's most important books including *International Conflict for Beginners* (1969), *Getting to Yes* (initially coauthored with William Ury in 1981, with later editions adding Bruce Patton as a coauthor), *Getting Together: Building Relationships as We Negotiate* (1988, with Scott Brown), *Beyond Machiavelli: Tools for Coping with Conflict* (1994, with Elizabeth Kopelman and Andrea Kupfer Schneider), *Getting Ready to Negotiate* (1995, with Danny Ertel), *Getting It Done: How to Lead When You're Not in Charge* (1998, with Alan Sharp and John Richardson), and *Beyond Reason: Using Emotions as You Negotiate* (2005, with Daniel Shapiro).

What emerges from this retrospective is my radically subjective culling of a truly rich set of observations and prescriptions to identify those cross-cutting themes that strike me as consistently valuable to negotiators.

Without apology, my selections are congruent with my own orientation to negotiation analysis. Others would undoubtedly choose differently and with merit.

In trying to pin down Roger's distinctive contributions, I have found Howard Raiffa's memorable formulation to be apt: "ideas are incestuous. They commingle and refuse to sort themselves out so that one can say, 'These ideas are his or hers and those mine'" (Raiffa 1982: v). Stated in their most general form, few of Roger Fisher's lessons are fully original. Some have long pedigrees and have been developed and elaborated by other scholars, sometimes even in opposition to Roger's version, but almost always productively.

However, Roger Fisher should be especially closely associated with the five following prescriptions (among others) given the extent to which he and his coauthors singled them out from among a vast number of plausible possibilities, consistently highlighted them, applied them productively to challenging problems, and memorialized them for generations of students, colleagues, and a wide readership. Saving a few caveats for the final section of this article, I have chosen five themes of particular value from among many worthy candidate ideas. With little elaboration or even a sampling of the seemingly endless illuminating and supportive examples Roger provided, here are my candidates for the Roger Fisher negotiation precepts that I believe will prove to be the most enduringly useful.

Focus on the Other Party's Decision in Order to Craft a "Yesable Proposition"

Throughout their works, Roger and his colleagues maintained a laser focus on understanding and influencing the *other side's* decision: precisely what decision do you want *them* to make, why would they choose to do so, and how can you shape their choice toward this goal? This seemingly simple advice often gets lost in practice, given the common tendency for negotiators to focus primarily on their *own* problem, intoning about the other side: "that's *their* problem. Let *them* deal with it." Such negotiators often concentrate on forcefully articulating their own demands — with comparatively little thought as to how the other side will react and why. Roger's focus on engineering *their* decision serves as a valuable corrective.

To scholars who study situations of "mutual influence" such as negotiation, advice to focus on the other side's choices may seem self-evident and only the first step in a chain of linked reasoning involving both parties. Indeed, game theorists often take this logic to its full, hyperrational interactive limit (i.e., in deciding on what is optimal to do, negotiator X thinks about Y, who is thinking about X, who is thinking about Y thinking about X — while Y's optimal actions interact with X's to produce an equilibrium). Behavioral scientists on the other hand (e.g., Bazerman and Neale 1991; Neale and Bazerman 1991) consistently document the pervasive

tendency of negotiators to do nothing of the sort, routinely “ignoring the cognitions of others” instead. As a practical matter, folk wisdom reminds us to “put ourselves in the other person’s shoes” precisely because we so frequently fail to do so.

Roger and his colleagues offered much more than observation or admonition to focus on influencing the other side’s choice. They constructed various “currently perceived choice” tools, typically in the form of explicit “balance sheets” to assess and compare how a decision maker on the other side would be likely to evaluate the impact of saying “yes” to your proposal versus saying “no.” (See Bruce Patton’s article on page 144 and Andrea Kupfer Schneider’s on page 171.) Such devices often reveal barriers to “yes.” Faced with a “no,” Roger counseled constructing a “target future choice” chart with modifications to the “if yes” and “if no” columns that, ideally, would induce a “yes.” Observing that “making threats is not enough,” much of his analysis consisted of how to construct and effectively communicate a “yesable proposition” to the other side that embodies the concrete decision you want them to make. Properly constructed, a yesable proposition would meet *all sides’* interests better than a “no” would.

It is one thing to urge negotiators to pay attention to the cognitions of others or to put themselves in the other guy’s shoes. Roger’s contribution was of a different and higher order: it systematically inculcated a mindset in which influencing “their decision” is the central focus of your negotiation approach and provided explicit tools to make this focus operational in practice.

Make “Interests” Central

A hallmark of Roger Fisher’s approach to conflict and negotiation was its preoccupation with the “interests” of all sides. His notion of interests is expansive: they are *whatever* each party cares about that might be affected by a negotiation. These range from basic human needs to political reputation to self-image to relationships to legitimacy to the financial terms in the contract. Interests can be objective or subjective, tangible or intangible, selfish or altruistic. In constructing a currently perceived or target future choice chart, interests constitute the raw material for the process. Only if a potential yesable proposition meets real interests does it stand a chance of acceptance.

On first hearing, an admonition to focus on interests can sound self-evident, but Roger and his colleagues correctly observed that many people automatically equate interests in a negotiation with their stated “demands” or “positions” on issues. This implies a need to sharply distinguish between interests and positions, to probe behind bargaining positions to uncover the full range of each side’s interests. Behind incompatible positions, Roger and his colleagues argued and demonstrated, compatible interests can frequently be uncovered. Hence, the famous *Getting to Yes* maxim: “Focus on interests, not positions.”

Even if, strictly speaking, one should not always focus on interests rather than on positions, it is hard to think of a negotiation in which one would not want to make and probe this distinction; deeply understanding the full set of perceived interests of all parties — as distinct from their stated positions or demands — is essential to virtually all negotiation analysis. Although Roger and his colleagues were hardly the first to notice the importance of underlying interests versus bargaining positions (e.g., Follett 1995, Walton and McKersie 1965), *Getting to Yes* and its progeny made interests the centerpiece of their project — and of many people's subsequent approach to negotiation. To this day, the disparate faculty from widely different intellectual and professional traditions associated with Harvard's Program on Negotiation all characterize their approach as "interest-based" as do many of their colleagues in institutions around the globe.

Generate Fresh, Mutually Beneficial Ideas

Mechanically splitting the difference between contending positions was never acceptable to Roger Fisher and his coauthors. They rejected the pervasive "zero-sum" mindset that behavioral scientists have extensively documented as the "mythical fixed pie" and "incompatibility" biases (Bazerman and Neale 1991; Neale and Bazerman 1991; Thompson 2001). Instead, Roger offered a panoply of useful tools, mainly various forms of brainstorming and "devising seminars" (see William Ury's article on page 133), to generate new and creative options to resolve conflicts and come up with "win-win" possibilities for negotiators. *Getting to Yes* epitomized this advice in one of its core aphorisms: "invent options for mutual gain." (Versions of this idea can also be found in various forms in several of Roger's other books.) Negotiators should psychologically position themselves "side-by-side against the problem," trying to come up with new solutions, rather than "face-to-face against each other" seeking to prevail (see Daniel Shapiro's article on page 179). If interests constitute the underlying ingredients of yesable propositions, value-creating options are the form that such propositions will take. Whatever its empirical basis, the notion of a genuinely zero-sum conflict was anathema to Roger Fisher's relentlessly optimistic approach.

Pay Attention to BATNAs

One of the most memorable, cross-cutting elements of Roger's work, especially with Bill Ury and Bruce Patton, is a consistent focus on each side's "BATNA," their acronym for "best alternative to a negotiated agreement." Essentially, your BATNA is the most promising course of action you would take absent a negotiated agreement, and the other side has one also. In evaluating whether to accept a possible deal, your BATNA answers the "as compared to what" question. It is the baseline against which proposals

should be measured, whether this means going to court, going out on or taking a strike, buying something else or doing without, making the item internally, finding a different supplier or buyer, crafting an alternative alliance, or even mounting an invasion.

A necessary condition for the other side to accept a yesable proposition is that the proposition satisfy that side's interests better than the other side's BATNA would. (And of course you should only propose and/or even consider accepting deals that beat your own BATNA.) Beyond implying whether a zone of possible agreement even exists — it does not exist if at least one side's BATNA is better than any feasible deal — BATNAs are tightly associated with bargaining power. Thus, the better my best walkaway (BATNA) and the more credible my willingness to walk, the more power I have in the negotiation. While the BATNA concept and its tight relationship to "bargaining power" has long been an analytic staple of game theory, economics, organizational behavior, and sociology (Lax and Sebenius 1985), generations of Roger's students, colleagues, and readers, along with a much wider audience, have adopted the term "BATNA," finding it to be an irresistibly useful bit of jargon when thinking about no-deal options.¹

Assessing each side's best no-deal option, including how it may change over time, is fundamental to any credible negotiation analysis. However, Roger and some of his colleagues seem ambivalent about its tactical and strategic implications. In *Getting to Yes*, for example, the BATNA concept appears only *after* the basic (non-BATNA) approach has been described and only then under certain, largely *defensive* conditions associated with "protecting yourself." The relevant section of the book is actually entitled: "What if they are more powerful? Develop your BATNA." This aligns with Roger's frequently expressed aversion to coercive approaches, for example, "be unconditionally constructive" (Fisher and Brown 1988: 24), use "persuasion, not coercion" (Fisher and Brown 1988: 132), "never yield to pressure" (Fisher and Ury 1981: 88–91), and "making threats is not enough" (Fisher 1969: 27), which perhaps resulted from his painful experiences in World War Two.

Surely, parties should assess their BATNAs, at least informally, at the start of *any* negotiation. Moreover, once focused on each side's BATNA as a foundational concept, the option of worsening the other side's BATNA — along with strengthening your own — becomes a logical, tactical, and strategic possibility, to be empirically evaluated for potential (defense, influence, etc.) and risks (escalation, relationship damage, etc.). Indeed, threatening to and/or actually making the other side's BATNA worse is as fundamental to the well-known tenets of "coercive diplomacy" (Craig and George 1995) as to the Mafia godfather's "offer you can't refuse." For example, Richard Holbrooke partly attributed his success in ending the Bosnian war to his ability to "bomb and talk" (though he stressed the relatively rare conditions under which such an approach will work, citing his Vietnam experience.) Although Roger rarely advocated

BATNA-worsening strategies, it is a testament to the power of the BATNA concept that its potent uses in practice and theory go well beyond those that he, as its most memorable exponent, generally preferred.

Use “Objective Criteria” to Transform Negotiations from a Test of Wills to a Search for Fairness Principles

To many hardboiled readers of *Getting to Yes*, its admonition to “insist on using objective criteria” may seem idealistic, even naïve. As formulated, however, this original advice to systematically employ “principled negotiation” is a first cousin to the book’s relentless focus away from bargaining positions and toward underlying interests. At a deeper level, emphasizing interests and principles over positions and power seeks to shift negotiation from a tug-of-war mentality — that can lead to poor agreements, soured relationships, impasses, and escalation — toward a more constructive, joint problem-solving orientation.

Suppose that negotiators have found joint gains and have moved toward or even reached what analysts would call the “Pareto frontier” on which no further mutually beneficial moves are possible. How should they decide among possible deals when their interests now *inherently* conflict? Rather than argue, insist, or push, Roger and his colleagues urge negotiators to search for principles that are “outside the will of the parties.” They provide much advice on how to operationalize their concept of “principled negotiation.” If a principle can be found that is mutually persuasive — on the basis of fairness, norms, precedent, what a “wise judge” purportedly would decide, or something analogous — the distributive conflict may be resolved more constructively, without the risks and costs of a test of wills. This can be a genuinely game-changing, productive orientation. Roger used this principle when helping to negotiate the Iran hostage conflict — he suggested that both nations agree to use international law to help resolve their debt issues and both agreed. (See Bruce Patton’s article on page 144.)

It is perhaps no surprise that a Harvard Law School professor would seek to emphasize principles over power. As a practical matter, many people — not all — genuinely care about fairness and would prefer to negotiate on the basis of “principle,” especially given the drawbacks of the usual alternatives. Jointly seeking a compelling principle or criterion that appeals to both sides can avoid conflict and enhance relationships. As anthropologists (e.g., Gulliver 1979) have observed, even for people who do not care much about principles at all, this approach may be attractive, because they may wish to *appear* to care about principles. And, in my experience, even people who are wholly cynical about principles or fairness may still look for some mutually acceptable rationale, even if it is arbitrary, to resolve distributive conflict without a costly fight. In this sense, a search for principles is analogous to a search for mutually compelling

“focal points” (Schelling 1960) that can coordinate parties’ expectations in fundamentally indeterminate situations.

It is easy to poke intellectual holes in a negotiation precept that urges a mutual search for “objective criteria.” What, again, is “objective” in an inherently subjective world? Where is the empirical evidence — for meaningful negotiations — that any significant fraction of negotiators place much weight on acting in a principled fashion relative to getting a better deal for themselves? Because we know (Babcock, Wang, and Loewenstein 1996) that parties can be highly self-serving in their choices of relevant comparisons for negotiations, are not “principles” likely to serve as tactical proxies for selfish positions? Undoubtedly, these objections hold at times, even often. However, in my experience, offering a structured, well-articulated alternative to bargaining power and positions, in the form of “principled negotiation,” can push the process in a constructive, relationship-enhancing direction. I count this as a real contribution to the negotiator’s fundamental toolbox.

These Five Contributions as a Whole

These five contributions fit together and support each other nicely. Roughly summarized, to influence the other side’s decision (your prime focus as a negotiator), seek to craft a yesable proposition whose advantages to each side outweigh its disadvantages. Imagine a target “balance sheet” for the other side that you wish to tip toward a desirable “yes.” To come up with the yesable proposition that accomplishes this goal, you must develop a deep understanding of the full set of all parties’ interests beyond their stated positions — as well as of each side’s BATNA. By generating a range of fresh, creative options that satisfy each parties’ interests better than each side’s BATNA, you may, perhaps jointly with the other side, come up with candidate yesable propositions. To choose among feasible options, you should seek and rely on mutually attractive principles or objective criteria outside the will of the parties. Throughout, you should relentlessly reframe the process away from a positional tug-of-war and toward joint problem-solving, both in the domain of interests and criteria.

Of course, Roger and his colleagues stressed the critical importance of other major aspects of effective negotiation that support the five elements that I have detailed above. For example, *Getting Together* offers a guide to building good *relationships* while negotiating. *Beyond Reason* highlights the inherent importance of *emotions* in the negotiation process and provides useful guidelines for managing them constructively.

In line with much of the broader negotiation literature, Roger and his colleagues consistently highlighted the pivotal role of *accurate perceptions and communication* in effective negotiation and conflict resolution. This emphasis serves as a useful corrective to many analysts, especially nonbehavioral economists and game theorists, whose models and approaches

often implicitly assume that perceptions accurately mirror underlying reality. As noted above, though they rarely cite underlying studies, Roger's works inveigh against self-fulfilling perceptions of a "mythical fixed pie" in favor of more creative options that satisfy both sides' interests. Memorably, these books wisely counsel not to "deduce their intentions from your fears." In line with extensive psychological research, they urge probing and active listening to correct rampant "partisan perceptions" and attribution errors that can lead to worst-case assumptions and escalation (Robinson 1997). And they stress the elements of effective communication using various tools of "message analysis" to ensure that intended messages match received ones and that the communication attains its objectives.

The Essence of Roger Fisher's Contributions to Negotiation

In assessing Roger Fisher's most important contributions to negotiation, it is crucial to appreciate that various forms of intellectual capital can be valuable depending on one's purpose. By far the most familiar form of intellectual capital in the social sciences is the deductive proposition supported by experimental and observational evidence. Yet many other forms of knowledge can also be valid and useful.² Rarely, if ever, did Roger create knowledge of the deductive, experimental kind; as such, his work can easily be dismissed by more orthodox social scientists.

Roger and his colleagues, however, constructed frameworks of aphorisms that, on average, respond to widely perceived practitioner needs and systematically direct negotiators' focus to aspects of the situation that will reliably generate helpful prescriptions. Mid-level frameworks and generalizations that regularly do this while genuinely respecting the intended audience can be truly valuable. Would-be users are left with the task of asking "under what conditions" does each class of advice apply and under what conditions would it not apply as successfully?

Even if flawed in some respects, the main message of Roger's work is compelling to many and could not be easily ignored in the world of negotiation. Not only did lay readers and students engage with Roger's work, so did many scholars, with whom he enjoyed spirited disagreements over the years. Indeed, two of my books, coauthored with David Lax, *The Manager as Negotiator* (1986) and *3D Negotiation* (2006), conditionally embrace but often critique the approach of *Getting to Yes* and its progeny while systematically extending analysis and advice to vital aspects of negotiation downplayed in Roger's work (e.g., the tight links between competitive moves to "claim value" individually and cooperative moves to "create value" jointly, wide classes of moves "away from the table" to set up the negotiation in the most promising fashion, etc.).

In an earlier era, famed Harvard economist and public intellectual John Kenneth Galbraith, a close friend of Roger's, provocatively framed a creative

new agenda about the actual, as opposed to idealized, structure of the American industrial economy. There was widespread agreement among his more “neoclassical” economist colleagues that Galbraith, whose work had become extremely popular among the general public, had “gotten it wrong,” at least in some key respects. However, in part given the widespread enthusiastic reception Galbraith’s books enjoyed, many academic economists took his arguments seriously, going to work probing, refining, and sometimes refuting them. The result was improved understanding in professional and public circles.

Similarly, Roger’s work on negotiation, which is certainly open to various challenges, has stimulated much work by researchers who could not stand the fact that, in this or that regard, Fisher had “gotten it wrong” or relied too much on “anecdotes” or had allegedly committed some other analytic sin. The happy fact is, however, that many people research and read about negotiation today as a result of the agenda that Roger helped to set and many of the memorable propositions that he advanced. Certainly, he gave them tools to negotiate more productively and cooperatively.

NOTES

1. David Lax and I (1985) traced many of the intellectual antecedents and equivalents of the BATNA concept while developing its implications in some analytic depth.

2. This argument is developed at length in my 2006 memo “Professional Schools and Academic Departments,” which can be downloaded at <http://www.dropbox.com/s/ixebp76kxeg249j/Profv.Acadv1.8.doc>. See also the articles in the special section “Practice in the Academy,” also in this issue.

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