



Fighting for Our Principles: Interests vs Values in Conflict Resolution

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Introduction

Recent events, especially in the realm of political negotiation, provide some evidence that ‘win-win’ negotiation may be going out of style. The undeniable success of some unabashedly win-lose dealmakers, in the US and elsewhere, should force us to reflect again on our own negotiation precepts, especially those in the win-win tradition of principled negotiation.

How can it be that negotiators with questionable ethics have succeeded at least in the negotiation of becoming elected in several major countries? Are *values* no longer important, or at least the values that many of us hold dear?

These negotiators certainly understand the concept of *interests*. The Harvard approach to negotiation famously differentiates between *positions* and *interests*, admonishing us to get beneath closed binary demands made by the opposing side in a negotiation and instead explore the interests underlying those demands, which are usually more personal, broader and more readily addressed once properly understood. These can then be pursued more effectively, leading to either a win-win or a win-lose result. In any case, they help us to seal the deal.

At the same time, in his farewell speech, Barack Obama warned of a “buckling of democracy if we allow our values to weaken”. But just where do values fit into negotiation analysis? As a consequence, questions arise for those who study, teach and practice negotiation: How do we differentiate values from interests? And what strategies and tactics are needed when the conflict arises not from what people want but from their values – *who they think they are*? Are values ever negotiable? And what is the difference between negotiation and advocacy?



This paper first seeks to establish clear definitions for some of these terms in order to contrast the dynamics of interest-based negotiation with those of value-based conflict. In that discussion, we also explore the consequences of disputes arising out of shared vs conflicting values, especially in interaction with interests.

To understand the practical implications, I apply all of this to the particular case of a surprising successful negotiation around the tar sands of Alberta, Canada. Here was a seemingly intractable situation with highly ideological protagonists in conflict mode for a very long time. Yet somehow it turned out to be values as well as interests that yielded the seed of the solution. While many tricky issues remain, it is a fertile case for exploring not only the difference between negotiation and advocacy, but also the power within each when they can be combined successfully.

Interests: The negotiation iceberg

To aid in teaching the concept of interests in negotiation in seminars, I utilise a metaphor of an ‘iceberg’ to explain a model of negotiation that goes deeper than the distinction between positions and interests now familiar from the Harvard School (Fisher and Ury, 1980) and incorporates some of the rich mine of empirical work from cultural and social psychology.

The ‘iceberg’ model, depicted below, distinguishes three fundamental levels of awareness in every negotiation:

- 1. Positions.** The tip of the iceberg represents what the negotiator on the other side tells you that she wants. It is usually couched in terms of a closed demand, a binary choice that is to be accepted or rejected. It is often quantified and is nearly always quite specific. The proposals may even already be presented in the form of contract language.
- 2. Interests.** As described by Fisher and Ury, these are the (hidden) motivations underlying the stated positions. They are by definition more personal, more abstract, less clear-cut and generally withheld from the other side in the negotiation. They are not logical arguments to support the position, but rather the deeper and more inchoate sea of drivers under negotiation demands. But they are always present, affecting every negotiation to some degree.
- 3. Perceptions.** Interests are also grounded in something even more deep-seated: the life experience, needs, prejudices, emotions and fears of the individual. In their totality, they form the negotiator’s subjective experience of the world. They are deeply personal and, as a result, are inaccessible to others.

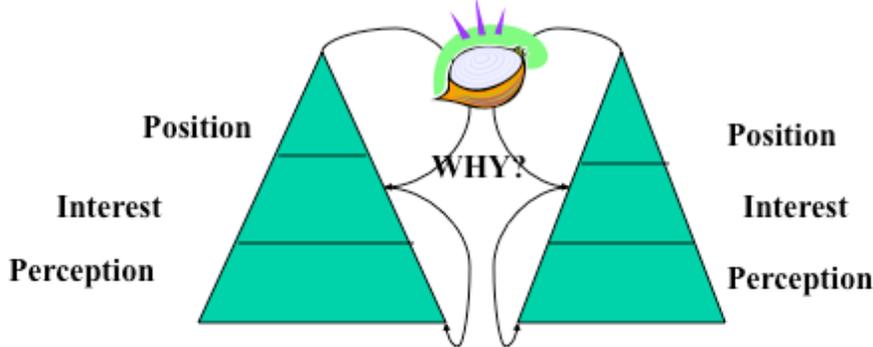
This really is a new dimension, a much wider way of thinking than the Harvard concept allows



for. For it includes EVERYTHING that comprises a person’s worldview, including unconscious biases, irrational drives and a certain amount of ‘wishful thinking’. In philosophical terms, it is how we construct our world.

Negotiating positions are usually founded on interests and, ultimately, perceptions.

Solving Problems by Asking Questions



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Values: An added dimension

But is this picture complete? Does it in fact capture all facets of human behaviour, beliefs, and internal psychological forces, especially in situations of conflict? Can we examine and evaluate negotiation solely on the basis of positions, interests and perceptions? Is there another dimension, another force that influences our actions?

I contend that in negotiations people are driven not only by what they want but also by what they stand for, or, more specifically, *who they think they are*. These bedrock values, whether conscious or unconscious, are also powerful drivers of negotiation strategy and behaviour.

In an attempt to examine and summarise some of the literature on values, especially the writings of Carrie Menkel-Meadow, Michael Wheeler and Joseph Reitz, I would suggest it’s possible to differentiate values from interests along the following dimensions:



What are ‘values’?

What they are:

- A compass to guide your life
- Often unspoken, unconscious
- The result of a normative system
- Things that define who you are



What they are not:

- An activity or object of desire (a job, a hobby, money)
- A reward for activity
- Totally dependent on the situation
- Things that define who

Values are unique and subjective, a starting point for action rather than a goal, the parameters for what is acceptable and what is not. They define us. They are powerful motivating factors, at least as weighty as interests. Unlike interests, they are fundamentally not negotiable; they can't be bargained away. Furthermore, they are often sharply in conflict with those of our negotiation partner.

But where do values fit within the concept of the negotiation iceberg? Are they merely a part of our perceptions, or are they distinct? Are they similar to or elements of interests? Is there a relationship between positions and values? Can values concerns be addressed using strategies and tactics that have been successfully used in negotiations? Do they require their own approach? How do we manage negotiations when values do not necessarily align with our interests? Somehow, there seems to be something firmer about values, and is there any hope of reaching a win-win deal when these are fundamentally in conflict?

What we are faced with here is the difference between negotiation (bargaining) and advocacy (defending principles). This point came home to me powerfully when I trained a group of environmental activists in the US. Presented with the iceberg model of negotiation, they made it clear that, while they wanted to do their best to reach good agreements with the ‘other side’, if they were to continue to be true to their values and identity some things were clearly non-negotiable. They wanted to be both good negotiators and effective advocates for their principles and values. They were not quite sure how to reconcile the two.

Is this perhaps also the reason that many political situations of intractable conflict end in decades of deadlock? In some instances, identifying and addressing interests is clearly not sufficient. Some conflicts involve values and must therefore be dealt with through different means. To do that, we must first acknowledge these values and their basis, then take them seriously in designing strategies to allow a candid discussion. In doing this, we acknowledge their potential both for intensifying, but also for resolving, conflict.



Negotiating with both: the tar sands conflict

This discussion of values will become clearer when applied to a specific negotiation example. I first became interested in the fundamental difference between interests and values when doing negotiation training for the front-line staff of Stand.earth, an environmental advocacy organisation with offices in San Francisco, California and Bellingham, Washington, as well as Vancouver, BC.

Particularly interesting was Stand.earth's multiyear engagement, beginning in 2010, with the tar sands project in Alberta, Canada. This massive petroleum/bitumen extraction space, first mined in 1967, is the largest industrial project on earth. Its 220 square km or 85 square miles makes it the size of 73 Central Parks or twice the size of the city of Paris. The site produces 300 litres of toxic sludge per day for a total of 1 trillion litres extracted by December 2017, all of it piped into open unlined rammed earth pits. The result is, to say the least, a fairly unappetising sight, reminiscent, says my client, of the bleak landscape of Tolkien's Mordor.

At the same time, the tar sands are enormously important to Alberta's economy, generating 70% of the province's revenues and, directly and indirectly, hundreds of thousands of jobs.

The first phase of Stand.earth's involvement in this 'negotiation' found them in pure advocacy mode: mobilising grass-roots resources to protest the devastating environmental effects of this megaproject on the landscape. Positions hardened quickly, especially as some of the more militant press labeled Stand.earth's Tzeporah Berman (<http://www.tzeporahberman.com>) a 'militant' and a 'whack job nature worshipper'; she was even physically attacked at the Edmonton Airport.

For their part, the team around Tzeporah closed ranks against the intractable front of the oil industry, joined by some segments of local industry as well as representatives of what was then the provincial government who were united in their commitment to maintaining the status quo. Stand.earth, for its part, started with fairly maximalist positions demanding an immediate freeze of all drillings and extraction and seeking to negotiate a closing of the pit. Both positions were untenable to the other side.

This polarised and intense debate escalated quickly into a lose-lose dynamic. If there was any opportunity for a different outcome, something had to change.

The shift came with an agreement, initially by the two sides and later encouraged by a new and more environmentally conscious Alberta government, to launch a two-track negotiation process. In addition to a working group to hammer out key issues, both sides agreed to hold a series of dinner



meetings with a steering group of senior decision makers, with a stated objective of exploring each other's views in a less formal setting. These discussions soon led to an unexpected discovery of *shared values*.

The members of the steering group were carefully chosen, and included CEOs from five of the 20 leading oil companies on one side, and representatives of several leading environmental groups on the other. Subsequently, these informal meetings were moderated by the new Alberta premier, Rachel Notley.

At the first meeting of this new negotiation effort, the steering group agreed on ground rules, including a linguistic shift borrowed from improvisational theatre: the phrase 'No, because' was to be replaced by 'Yes, if'. The aim was to create an atmosphere of genuine listening. And the result was, as one participant put it, 'no comfortable lunches'. This tactic was successful in producing an exchange that was open, constructive and solution-focused.

Several shared values emerged. Beyond the obvious ones of recognising that all parties wanted both a healthy environment and a healthy economy, the participants all found that they had a desire to make use of leading-edge modern technology. They also managed to agree that they were committed to Canada's 'High Ambition Coalition' climate change obligations under the COP21 treaty and the nation's quest to truly be seen as a global leader in that undertaking. Their ideas of how to get there varied significantly, but all (including the government), agreed that Alberta needed to 'do its fair share'.

The creative solution to this seemingly intractable conflict lay in reframing the problem. By 'parking' the thorny issue of limits on oil production, and instead focusing on the shared value of reduced emissions, the group managed to agree on a ceiling of 100 megatons. This agreement satisfied the environmental groups but set the cap above the current 70 MT level. In doing so, it allowed industry to prove its commitment to the goal while still continuing to develop low-emission technology.

This increase from 70 MT to 100 MT was a concession to the realities of projects already under construction. They would continue to be built, but the 100 MT limit would mean that already permitted projects would either be cancelled or allowed to move forward only where dramatic emissions reductions would not violate the cap.

Having achieved so much, the negotiators identified and developed alternatives for other 'moving parts', including the negotiated carbon price, the legislative cap, measurable methane reduction, technology incentives and the goal of totally phasing out coal by 2030. They created a systemic solution. By seeking and acknowledging their shared values, the negotiators achieved a game-changing shift from positions to interests.



The key to the success of this approach was humanising the other side by focusing on shared values. What then developed was reduced polarisation and unexpected ‘radical collaboration’, as all participants experienced the shift from an entrenched debate to a solution space.

It is important to note, however, that none of this precluded parallel advocacy efforts on both sides, if only to satisfy home-fronts. In particular, Stand.earth, together with affected First Nation groups, continued with some fairly spectacular public demonstrations to maintain pressure for the negotiations. The industry side countered with press statements about Tzeporah and her team as well as with advocacy efforts of their own. These parallel methods of advocacy and negotiation were successful.

Lessons learned

It seems to me that we can draw at least 5 valuable lessons from this negotiation story:

1. **Values may be a source of common ground.** The purely interest-based negotiation approach was not working because each side expressed interests and positions that were, for the most part, diametrically opposed. Stand.earth did not really care about the profitability of the Albertan oil and gas sector, and industry representatives were unmoved by depictions of the damage they were doing to the environment. By strategically reframing the negotiation and discovering their shared values of meeting the overall Canadian goal of emissions reductions, especially in a way that showcased Canadian technology, the parties found a means to a resolution of their differences.
2. **Values are not a panacea.** Not all negotiations result in parties discovering shared values. This is especially true for intractable international disputes in which deeply held values (democracy vs. authoritarianism, diverging religions) do not readily allow for finding common perspectives. In these situations neither party can afford to back down even a little without compromising its core beliefs.
3. **Values are only the start.** In the tar sands situation, there is much work to be done. The remaining 15 energy companies need to be brought into the deal. The game plan to 2030 must now be extended to 2050, requiring all sides to negotiate a far more uncertain timeline. The matter of dealing with ‘Stranded assets’ is a particular challenge, as is the issue of new pollution permits still being issued. And, both parties, but especially Stand.earth, will continue to face serious home-front pushback for ‘collaborating with the enemy’. Rather ingeniously, the parties have now managed to reframe this final challenge as yet another shared value: the need to deal effectively with perceived ‘traitorism’.



4. ***We should never underestimate the role of externalities.*** A strong case could be made that this negotiation breakthrough came not so much from an exploration of shared values as from the lucky concurrence of unrelated events. In particular, the victory of the New Democratic Party in the May 2015 Alberta elections provided the impetus to begin talking. As well, there is no doubt that the parallel COP21 negotiations motivated both parties to reach a deal.

5. ***We in the negotiation community should be thinking of other situations of intractable conflict where a shift from thinking about positions and interests to a focus on shared values might perhaps yield a breakthrough,*** much as it did with the Alberta tar sands. One possible context might well be the current European debate about migration, where most of the conflict is about interests with, so far, very little discussion of values. And yet the EU Charter is built on such values, with humanitarian ideals at the centre of the European identity. Rather than squabbling about refugee quotas and border policies, it would perhaps be more fruitful to challenge each Member State to articulate its own understanding of these shared values in a search for a fair way to express them jointly.

6. ***Values serve a fundamentally different function in conflict resolution: negotiation is not advocacy.*** Deeper, less often articulated, but much more potent, they can sometimes make a conflict even more intractable. But for truly empathetic and aware negotiators, they can also help to find unexpected common ground and a deeper connection between the parties.

Certainly we negotiate to get what we want. But even more important that what we want is what we stand for.



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