



Robert Jenks - NEGOTIATION TIP 50

Remember the old saying “Information is power”. The information stage of negotiations can be key to negotiators’ success at achieving beneficial outcomes, but it is often overlooked as parties’ race to the bargaining stage, excited to begin trading. Charles B. Craver in “Effective Legal Negotiation and Settlement” (Sixth Edition, 2009, Matthew Bender and Company) cites concerns that many negotiators in their rush to get to substantive claiming of value, race through the information stage. Craver suggests patience, moving slowly enough through the information stage to ascertain true interests, needs, positions and possibilities for creation of value. He cites numerous sources that asking broad open ended questions is the best way to gain information. He says it is a mistake to ask narrow highly focused questions in the early stage of information gathering and exchange. Narrow questions limit responses and the use of declaratory sentences gives away information rather than obtaining it. He cites numerous sources for that and that capable negotiators spend twice as much time asking questions as the less skilled counterparts. In “Negotiation Genius”, Deepak Malhotra and Max Bazerman (Malhotra, Deepak, and M. H. Bazerman. Bantam Books, 2007) cite a real story where a highly skilled negotiation team was stuck on a key issue. Upon joining the table, the leader, who had been absent, simply asked “why” the other party was rejecting a deal. Once they understood the interests of the other party, they built a deal that worked for both. A simple question that could have saved both parties time, effort and angst if ascertained in the information stage. Craver says shortened interactions may cause parties to ignore or not get crucial information that could or should have been processed in the developmental stages of a negotiation. Patience can be your friend. Use it to develop adequate understanding of the entire negotiation environment before bargaining.