

Legally Yours



By Ahmad J. Tahboub

Are you a good negotiator?

The art of dialogue is no longer restricted to philosophers. In western legal systems you get to negotiate legal procedures starting with your plea and ending up in a settlement deal with the district attorney (D.A). In Jordan, however, the issue of negotiation was triggered by mediation and case management mechanisms were parties of a litigation get to negotiate the cases together.

Apart from legal procedures, negotiation may ease your life. Do you feel that someone is continually taking advantage of you? Do you feel the need to fight for your corner aggressively, or ally with others, to win the resources you need? Or do you struggle to get what you want from people whose help you need, but over whom you have little direct authority? If so, you may need to brush up your win-win negotiation skills.

Effective negotiation helps you resolve situations where what you want conflicts with what someone else wants. The aim of win-win negotiation is to find a solution that is acceptable to both parties, and leaves both parties feeling that they've won, in some way, after the event.

There are different styles of negotiation, and this article emphasizes the ability to use it in life (including litigation). Since the inception of mediation, litigators (and parties to a dispute) found themselves in a position where every thing is possible. It became possible to seize legal procedures midway and move to negotiations. Although qualified as legal professionals, most litigators were not tutored for negotiations. Frequently, both negotiators "play hardball" and therefore parties are less likely to reach their intended goals. Parties forget that it is a small country and you are expected to deal with the same people (or attorneys) again and again. In short, you should not be aggressive as you need to maintain others goodwill. Apart from litigators, many people go through this when they buy or sell a house

– this is why house-buying can be such a confrontational and an unpleasant experience.

The two basic "NO NOs" in negotiations are playing a tough nut to break ... and ... the traditional "slick negotiator". Neither of these approaches is usually much good for resolving disputes with people when you are most likely to have an ongoing relationship: If one person plays hardball, then this disadvantages the other person – this may, quite fairly, lead to reprisal later. Similarly, using tricks and manipulation during a negotiation can undermine trust and damage teamwork.

To assess your approach in negotiation, let's go over a simple preparation kit. For small disagreements, excessive preparation can be counter-productive because it takes time that is better used elsewhere. However, major disagreements require thorough preparation, and you should go over the following questions before entering a negotiation:

- **Goals:** what do you want to get out of the negotiation? What do you think the other person wants?
- **Trades:** What do you and the other person have that you can trade? What do you each have that the other wants? What are you each comfortable giving away?
- **Alternatives:** if you don't reach agreement with the other person, what alternatives do you have? Are these good or bad? How much does it matter if you do not reach an agreement? Does failure to reach an agreement cut you out of future opportunities? And what alternatives might the other person have?
- **Relationships:** what is the history of the relationship? Could or should this history impact the negotiation? Will there be any hidden issues that may influence the negotiation? How will you handle these?
- **Expected outcomes:** what outcome will people be expecting from this negotiation? What has the outcome been in the past, and what precedents have been set?
- **The consequences:** what are the consequences for you of winning or losing this negotiation? What are the consequences for the other person?
- **Power:** who has what power in the relationship? Who controls resources? Who stands to lose the most if agreement isn't reached? What power does the other person have to deliver what you hope for?
- **Possible solutions:** based on all of the considerations, what possible compromises might there be?

The above may be included in a simple check list for use, fully or partially. As initial as the above may seem, it renders a true mirror to a party's legal and economical position. Following analysis and consideration, claimants, defendants ... and attorneys may qualify for a round table. I truly believe that premeditated negotiations may end large disputes and save litigators unjustifiable effort and cost. Hope that you share my view!

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