

Notes for Dedman IMPACT Conference - “The Art of Compromise”

[Prepared for a discussion panel including academics from history, political science, psychology, and management.]

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The obvious place to start thinking about comments and discussions surrounding a topic like “The Art of Compromise” is with the definition of the word compromise itself. As I began this process, I have to confess I was struck by the wisdom of a comment made by Edward Charles Francis Publius de Bono (a Maltese scholar responsible for the term “lateral thinking”):

“. . . words are encyclopedias of ignorance because they freeze perceptions at one moment in history and then insist we continue to use these frozen perceptions”

The more I thought about compromise, and our charge to come up with something provocative to say about compromise, the more I realized that there is not a thing called compromise – there are many possible definitions – and I realized that I needed to not worry so much about how my colleagues from history or psychology would define compromise.

I needed to worry about how theorists and practitioners from the world of conflict engagement would define and use the term and the fact of compromise.

To start, I asked several of my colleagues and friends to do a word association game with me – I said the word “compromise” and I asked them to give me the first word that popped into their heads. Now, I have to admit that the first one really surprised me. I said, “compromise,” and she said, “Butte, Montana.” After thinking about it for a moment, I said, “I have to ask, what does Butte, Montana, have to do with compromise.” “Oh,” she said. “I thought you said “copper mine. Never mind.” I felt like I was back on SNL with Roseanne Roseannadanna.

The responses from those who didn't focus on copper mines were interesting. Here's a sample:

Sharing
Surrender
Failure
Defeat
Not Ideal
Positional
Win-Lose
Split-the-Baby

In short, none of my colleagues had what I would call an overwhelmingly positive immediate reaction to the concept of compromise. Why is this? It's in the DNA of conflict engagement theory.

Practically all of the literature on Dispute Resolution/Conflict Resolution/Conflict Engagement (you should get an idea that a field that can't even decide what to call itself may not be the best place to go to talk about definitions) stresses the pursuit of INTERESTS, not POSITIONS, and part of the field (Transformative) avoids leading the parties to either compromise or consensus.

But the most interesting thing to me is not the negative view of compromise, but the fact that, for the most part, when we talk about compromise, we have it all wrong – what we label compromise is not compromise at all.

I'm supposed to start things off quickly with a provocative statement, so, notwithstanding de Bono's observation, let me just say that my colleagues have got it all wrong – when they talk about compromise, most of the time they are not talking about compromise at all – and just as an example, the 3/5's “compromise” that Professor Finkleman referenced last night at the keynote had absolutely nothing to do with compromise.

I think real compromise occurs when parties have moved from positions and have reached what some of my colleagues call the “zone of reasonableness.”



To explain what I mean, let me lay out three scenarios that are common, and that involve the relationship between positions and interests.

The first is what I'll call "**Isolated Positions.**" In this instance, the parties express an initial position in a negotiation that is divorced from the basic interest they have in the problem or issue over which they are negotiating. A good example is the 3/5's "compromise" I mentioned earlier, and that Professor Finkleman elaborated last night during the keynote. In the negotiation, the North started by asserting that slaves should count zero in the calculations of population that would lead to the amount of representation a state would have. The South started by asserting that each slave should count as one full person for purposes of representation. I'm quite sure that neither side thought there was any chance that their original position would be the one that resolved the dispute. And, I would argue, the basic interests of neither side were tied to the One and the Zero.

One way to interpret the basic interests of the North would be to assume that they valued the creation of a stable political state much more than they valued the ideal of universal human rights (where the universe included slaves), and that the South valued an increase in political clout much more than the recognition of any slave as a full human being. Because the basic interests were not tied directly to the opening positions, there was a lot of room to move. As Kwame Ture (Stokely Charmichael) once said to me, "My brother, you can always compromise your program – you just have to be careful not to compromise your principles."

In this Isolated Positions example, it is possible to move from One and Zero to 3/5's without violating the interests or principles – the North got a stable (for the moment) state, the South got increased representation. I would argue that there was no real compromise at all.

The second scenario is what I'll call **“Connected Interests and Positions.”**

In this example, the parties express an opening position that is related directly to a basic interest, and resolution depends on either a real compromise by one party or the other, or by working into The Zone to avoid compromise.

In an insurance case involving injury, the injured party's advocate opened the mediation session by declaring that there had to be at least \$1.5 million in compensation or they would go to trial. The insurance advocate opened by insisting that \$750K was as high as the company would go, and that if the injured party wouldn't take that, they would go to trial. An inexperienced mediator heard their opening statements and said, “well, it looks like we are at an impasse – let's go to trial.” The injured party's advocate said, “Wait a minute. I'm lying. He knows I'm lying. He's lying. I know he's lying. Give us a minute and we'll work this out.”

Ultimately, the advocates agreed on \$1.1 million, a figure well inside The Zone, and a figure that was near what both assumed would be the settlement when they started the negotiation. The injured party's advocate's interest was a “fair” settlement for the injury. The insurance company's advocate's interest was in settling without setting a precedent of giving more than a reasonable amount to the injured party. Both were able to abandon initial positions, get an agreement and not violate their basic interests. A settlement was reached, movement was made, but I would argue that there was no real compromise at all. If one party had enough leverage to push the settlement to \$1.4 million, or if the other had the leverage to push it to \$800K, then there may have been compromise – one

or the other would have given up something of real value, and something that violated basic interests.

The third scenario is what I'll call "**Merged Positions and Interests.**"

In this scenario, the stated positions are integral to the parties' basic interests or principles, so that moving at all represents real compromise – actually giving up something of value that they thought they would not have to give up.

The recent shut down over the budget is a good example. The President's basic interest/principle was that bringing extraneous items into a budget negotiation opened the door to mischief and was absolutely unacceptable. The Tea Party position was that the ACA had to be destroyed and that any short term damage was worth achieving that goal. In this scenario, any movement represents giving away something of real value – so no movement was forthcoming. When the Senate leaders crafted a compromise, it was a real compromise, and one that has the political base of the Tea Party crying that they were sold out to compromise by the Republican Senate leadership. They are right – there was compromise, and they are the one's who had to give up something to get a deal, with all the ramifications that will have on future negotiations.

The Compromise Tango

As I said initially, when we talk about compromise we mostly get it wrong, and we are talking about movement and negotiations that have nothing, really to do with true compromise. True compromise exists when you have to give up something that is connected to your core values or interests, and which you

really did not want to give up and thought you would not have to give up.

Most negotiations involve The Compromise Tango.

In Tango, the dancers can start on opposite sides of the dance floor. At some cue, heads snap toward each other and the initial electric eye contact is made. Thus begins a series of carefully choreographed steps that bring the dancers closer, then into contact, and then into a series of intricate movements that can appear to be confrontational. But they both know the steps and the confrontation is ritualistic – in the end, unless one or the other takes a mis-step, they end up in a dramatic pose that resolves the dance.

In negotiations, the opening positions are like that first eye contact in Tango – they begin the dance. Once the Compromise Tango begins, there are a series of choreographed steps that lead to The Zone. Why are movements from positions not compromise? Because they are choreographed and are, in a real sense, meaningless and without value.

The first stated position in any negotiation is probably ridiculous – the only question is how ridiculous. Movement away from that position is expected, and is part of the dance. The key to whether there will be real compromise involved in a settlement – whether there will be winners and losers – is whether The Zone is so narrow that the parties can't get there, or whether one party starts doing the Foxtrot instead of the Tango.

To see this in action, watch carefully the negotiations among the conference committee that has been established to work out a budget past January 15.

Sen. Patty Murray, from Washington State, will be a leader for the Democrats in the conference committee. She characterized the situation this way. “Paul Ryan will bring a budget to the table. I’ll bring a budget to the table. He is not going to accept mine, and I’m not going to accept his. We will negotiate.”

The dance is on. Tango or Foxtrot?