**When Our “Principles” Crash up Against our Negotiation Goals**

**To learn about setting negotiation goals, consider this billionaire’s fight to keep a gate locked that could have upended public beach access nationwide—to his dismay. It’s a cautionary tale for negotiators who are tempted to draw a line in the sand.**

**By** [**PON Staff**](https://www.pon.harvard.edu/author/pon_staff/) **— on December 17th, 2020 /** [**Dealing with Difficult People**](https://www.pon.harvard.edu/category/daily/dealing-with-difficult-people-daily/)

It’s not uncommon for us to get caught up in the [“principle” of a negotiation](https://www.pon.harvard.edu/daily/dispute-resolution/principled-negotiation-resolve-disagreements/), and forget all about our negotiation goals. Below is a cautionary tale of a years-long battle to keep the public away from a beach the owner had never even visited, and it stands as an extreme case study of how negotiations can veer out of control when we are unwilling to back down.

*Martin’s Beach is a hidden gem on California’s Pacific coastline. Surrounded by cliffs, farmland, and a gated community, the beach can be accessed only through a gated road located on private land. Yet, for nearly a century, surfers, fishers, and others who prized the cove’s rugged and wild beauty have had access to the beach. The beach’s owners kept the gate open and maintained a parking lot, a café, and other amenities for visitors, according to the Guardian. The state’s 1976 Coastal Act, which prioritizes public access to the ocean, confirmed this policy.*

*In 2008, Vinod Khosla, a venture capitalist and cofounder of Sun Microsystems, reportedly paid $37.5 million for a 53-acre parcel of land that included Martin’s Beach and the road leading to it. San Mateo County informed Khosla before and after the purchase that he would have to either (1) maintain the road leading to the beach and charge those in cars a small parking fee or (2) apply for a development permit to limit public access to the beach.*

*For about two years, Khosla allowed the public to access the beach road. In 2010, he locked the gate that led to the road without applying for a permit and ignored a judge’s order to reinstitute public access, according to the Los Angeles Times. Since then, Khosla has done everything possible to keep the gate shut and the public off the beach. Threatened with fines of more than $11,000 per day for locking the gate, Khosla filed a slew of lawsuits against county and state entities, alleging extortion and infringement of his rights.*

*You might assume that beach visitors disturbed Khosla’s privacy or sense of peace. But in fact, in the 10 years since he purchased the land, Khosla has never actually visited Martin’s Beach or spent a single night on his property. He prefers hiking to swimming, he told Nellie Bowles of the New York Times, and regrets buying the property. Nonetheless, he tried to take his battle over the gate all the way to the Supreme Court.*

We’ve all met negotiators like Khosla: people who will go to any length to get their way, even if it means spending vast amounts of money and damaging their reputation in the process. And if we’re honest with ourselves, we can probably think of times when our own determination to get our way turned obstinate and nonsensical.

**A wave of lawsuits**

For Khosla, whose net worth is an estimated $2.4 billion, the battle over access to Martin’s Beach is a matter of personal principle, he has said. Legal rulings to the contrary, he has said he is not obligated to give the public access to the beach and thus shouldn’t have to pay $200 to apply for a permit to close the road. “In [Khosla’s] view, the government was forcing him to operate a money- losing parking business,” writes Bowles.

To avoid paying the $200 application fee, Khosla has spent untold sums on legal fees, lobbying efforts, and other expenses related to his cause. In 2012, he hired guards to patrol the closed gate. Five surfers were briefly arrested for hopping over it, an incident for which Khosla was widely derided. Khosla temporarily won the right to keep the gate shut after successfully arguing that an 1848 treaty between the United States and Mexico superseded the Coastal Act, but he lost a subsequent lawsuit and two appeals. Khosla reluctantly had the gate opened, but only on certain days and for limited hours.

In 2017, the State of California offered Khosla $360,000 for an easement on the road to the beach. Though willing to bargain, Khosla demanded almost as much as he’d paid for the entire property: $30 million. Despite never having visited Martin’s Beach, he insisted that was the value he placed on his privacy, according to the *Times*. In its 2018 budget, the State of California said it would take ownership of the road via eminent domain if Khosla didn’t agree to a reasonable price.

In February 2018, Khosla petitioned the U.S. Supreme Court to hear his case. If it had and he had won, the decision could have upended California’s Coastal Act— and potentially led to new restrictions on public access to coastal waters nationwide. But on October 1, the Supreme Court declined to hear the case. Khosla would have to apply for the $200 permit.

**Navigating rough seas in negotiation**

What motivated Khosla to keep pouring time, money, and energy into land he doesn’t even want? He appeared to succumb to two common negotiating traps:

**1. An irrational commitment to a personal definition of “principle.”** It’s good to have core beliefs and principles in life, such as a commitment to honesty or to our family’s core values. When we abandon our deepest [principles in negotiation](https://www.pon.harvard.edu/daily/negotiation-training-daily/questions-of-ethics-in-negotiation/), we sacrifice our morality. Before refusing to negotiate “on principle,” however, we should pause to answer two questions.

First, would adhering to a particular principle require me to sacrifice principles and outcomes I value even more? All of us hold multiple principles dear, and sometimes they conflict. A person might aim to be truthful yet occasionally tell white lies to avoid hurting other people’s feelings, for example. In negotiation, we need to weigh and prioritize the various principles at play, keeping our ultimate negotiation goals in mind.

**Most ultimatums are not true deal breakers. By ignoring or reframing them, you will enable your counterpart to back away from them later.**

Khosla, for example, carefully built a reputation as an entrepreneur with a strong social conscience over the course of his career. An enthusiastic environmentalist, he invests in eco- friendly technologies and is at the forefront of the YIMBY, or “yes in my backyard,” movement, promoting an initiative to print 3-D houses for the homeless.

Those principles seemed to clash with what Khosla believes to be a principled defense of private-property rights: “If I were to ever win in the Supreme Court, I’d be depressed about it,” he told the *Times*. “I support the Coastal Act; I don’t want to weaken it by winning.” Though continuing to fight because, he says, “property rights are even more important” than public beach access, he appears torn and regretful about the situation. “I feel I could do the right thing much more caringly and with humility in a much more considerate tone if I could do it over again,” Khosla wrote to the *Times*, though he then added, “I’d mostly do the same thing.”

A second, related question to ask is whether you can adhere to the spirit, if not the letter, of a principle through negotiation. Some principles truly are non-negotiable, such as your family’s safety or your ethical values. We need to distinguish these sacred principles from “pseudosacred” ones—those we are willing to trade for something we value highly, according to Harvard Business School professor Max H. Bazerman. Khosla’s willingness to sell some of his land to the state (albeit for the nonstarter offer of $30 million) suggests that protecting private property rights may actually be a pseudosacred principle for him.

When you identify a principle of yours as less than sacred, you become open to finding creative ways to further your negotiation goals, break through impasse, and end destructive conflict. Khosla might have made a more reasonable offer for the easement and donated the proceeds to his YIMBY venture, for example.

**2. Escalating commitment to a failing strategy.** “If this hadn’t ever started, I’d be so happy,” Khosla told the *Times*. “But once you’re there in principle, you can’t give up principle.”

The statement illustrates one of the most common mistakes negotiators make, according to Bazerman: investing more and more resources in support of a failing decision. Whether it’s an ad campaign that has proven unsuccessful or a partnership that just isn’t working out, we tend to throw good money after bad. Reluctant to admit defeat, we become overconfident in our ability to save the situation even as it deteriorates by the day.

As economists tell us, the time and money we’ve invested in a course of action are sunk costs that we can never recover. It may be humiliating to own up to our mistakes and reverse course, but continuing to go down the same damaging path is a much more destructive—and stressful—option.`

**3 strategies for getting back on track with your negotiation goals**

We’ve identified ways to keep ourselves from getting caught in a dead-end conflict. How can we convince a negotiating counterpart with seemingly unlimited resources to avoid these traps? Here are three suggestions:

**1. Aim for understanding.** Negotiators often dig in their heels when they feel ignored and overlooked. Desperate to gain our attention, they may launch a value-destroying dispute.

Whenever someone takes a stance that seems hopelessly stubborn or refuses to negotiate “on principle,” resist the impulse to dismiss his concerns. Instead, ask for his side of the story. Listen without expressing your own views, repeat back what you’ve heard, and ask plenty of follow-up questions. The negotiation goal is not to come to agreement but simply to understand your differences better. Eventually, you may get to a place where you can begin to brainstorm solutions that meet everyone’s needs.

**2. Ignore or reframe ultimatums.** What should you do when the other party threatens to escalate a situation by taking you to court or making some other ultimatum? First, try to ignore the threat and move on to other issues, recommends Harvard Business School professor Deepak Malhotra in his book *Negotiating the Impossible* (Berrett-Koehler, 2016). If that isn’t feasible, try reframing the threat, advises Malhotra. Suppose the other party says, “I will never open this gate.” You could respond, “I understand that right now it would be very difficult for you to agree to open the gate,” and then move on to another topic. According to Malhotra, most ultimatums are not true deal breakers. By ignoring or reframing them, you will enable your counterpart to back away from them later.

**3. Concede on your own pseudosacred principles.** In research conducted from 2004 to 2008, Douglas Medin of Northwestern University and Khalil Shikaki of the Palestinian Center for Policy and Survey Research presented Israelis and Palestinians with a proposal that would require each side to make a concession on a “sacred” issue in exchange for lasting peace in the region. The groups became much more amenable to such concessions when the agreement also required the other side to make a significant concession on one of its own sacred values. For example, Israeli settlers were more open to Israeli withdrawal from the West Bank and Gaza if Hamas and other Palestinian groups accepted Israel’s right to exist.

The findings suggest that a negotiator may soften their stance if you offer to sacrifice on a pseudosacred principle of your own. When you demonstrate flexibility on a core issue, the other party may feel motivated to reciprocate.