



THE  
**LAW SOCIETY**  
OF HONG KONG  
香港律師會

# Peace and Prosperity *on the Belt and Road*

International Summit 2023  
in celebration of the 10<sup>th</sup> Anniversary  
of the Belt and Road Initiative



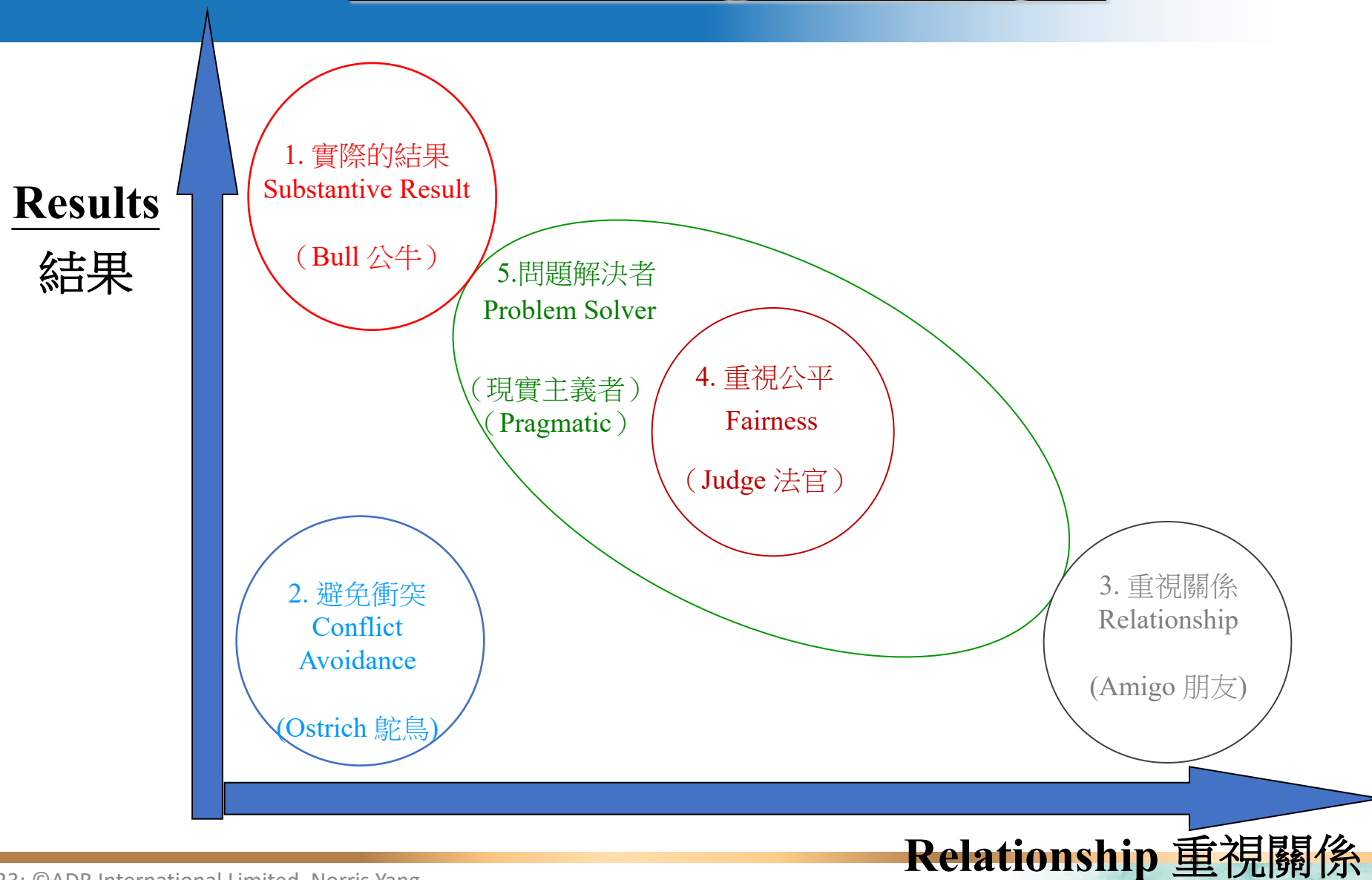
# The Art of Negotiator As a Mediator

Presented by Norris Yang,  
Partner Yang & Yang, Solicitors LLP

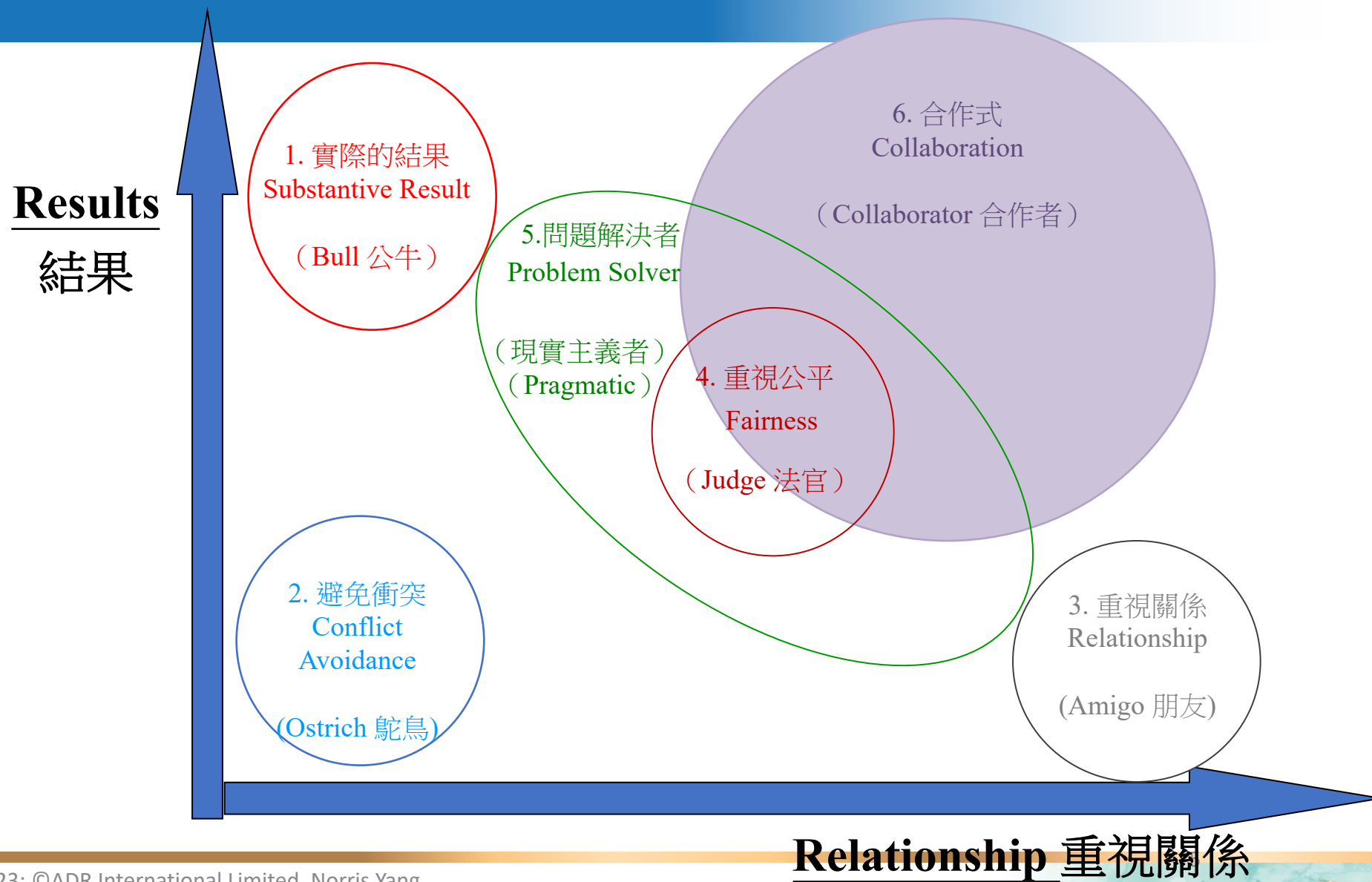
# Outline

- Keeping it Simple – Prof John Whiteside
- The 5 Traditional Styles of Negotiation
- Collaboration – Principled Interest-Based Negotiation
- “Sunburnt Emotions”
- The “Mediation Process Pyramid”

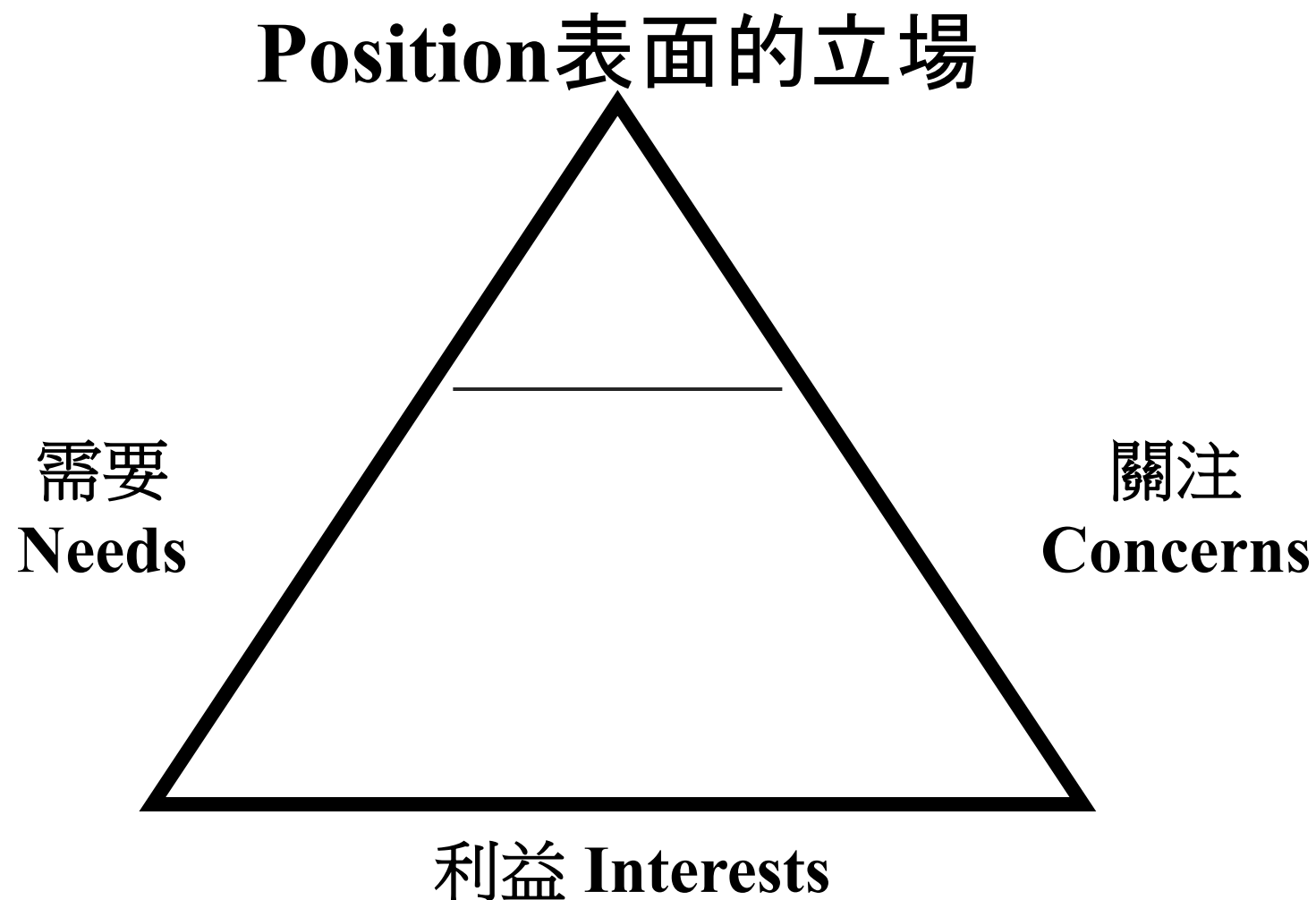
# Traditional Negotiation Styles



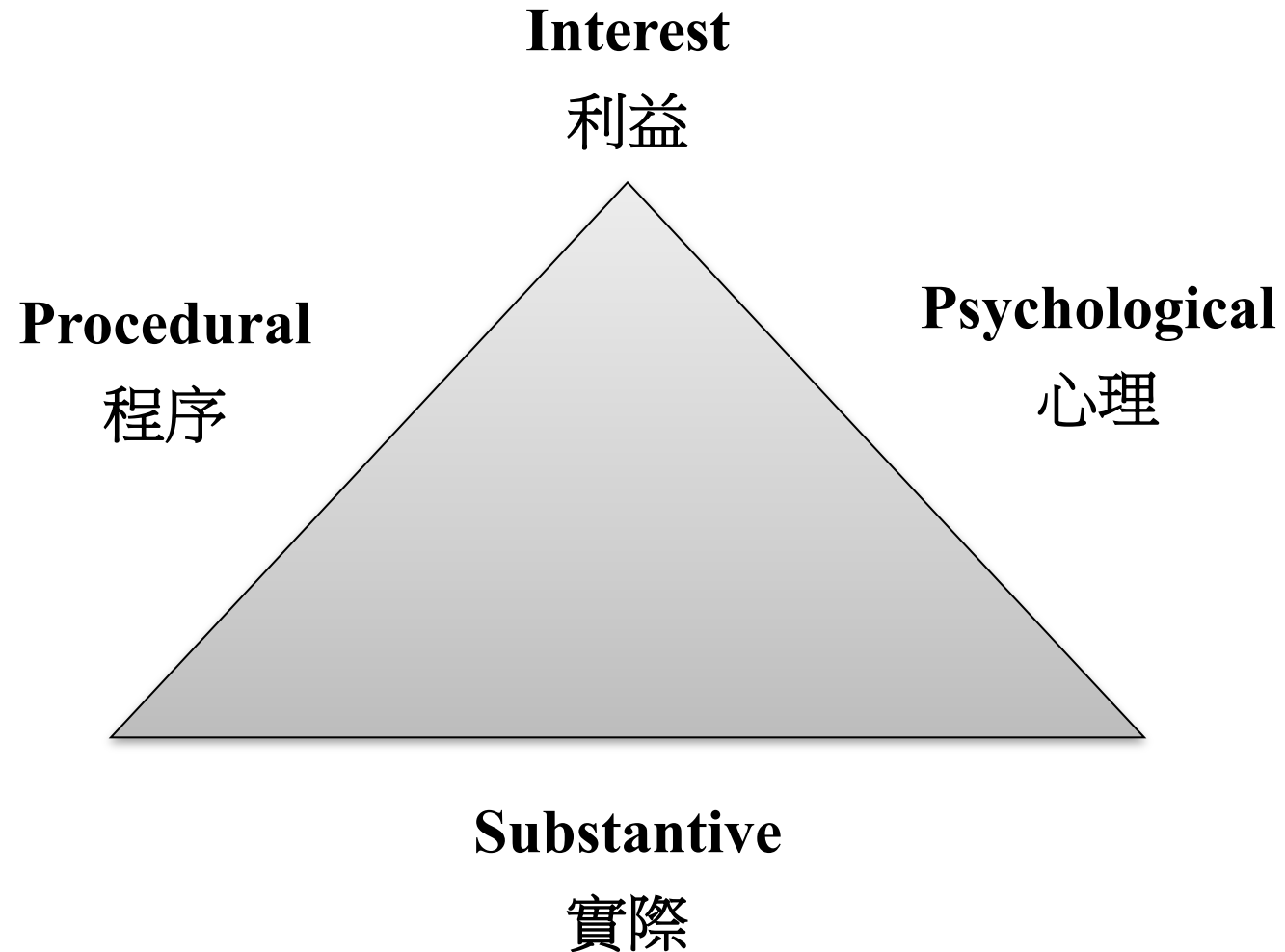
# Traditional VS Collaborative Negotiation Styles



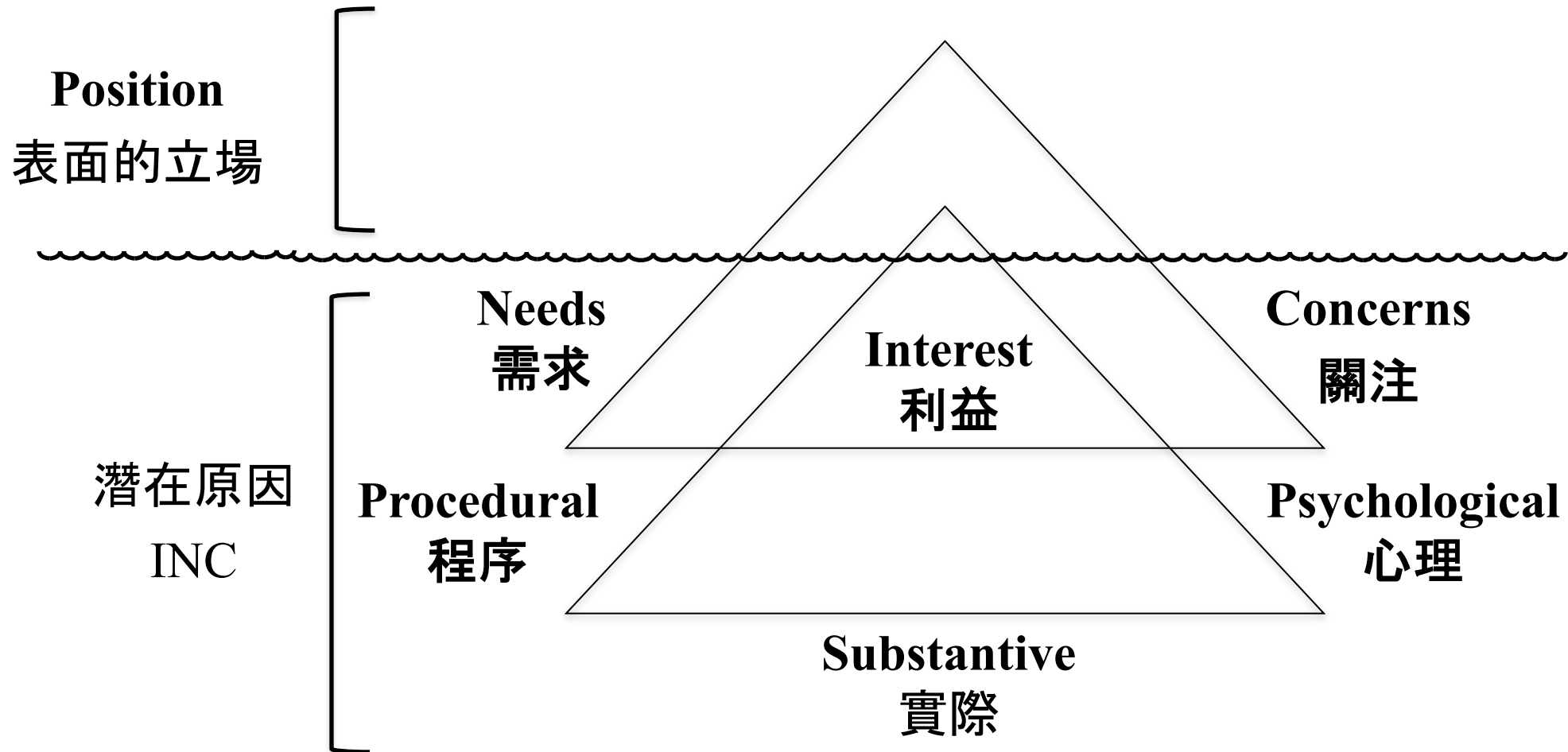
# Interest, Needs, Concerns (INC)



# Types of Interest 利益之分類



# Perception to outside world 對外間的感覺





# Mediation + other ADR = full picture & better outcomes

The Fact

The Law(S)

The Positions

Misunderstandings

Perceptions

Emotions

Interests

Concerns

Feelings

Beliefs

Values

Needs

Fears

## Interest-Based Negotiation 以雙方利益為基礎的談判技巧

- N** – **Negotiation Strategy for future** 為未來的談判策略
- E** – **Effective Interactive Listening** 有效的互動聆聽
- G** – **Goal to use Objective Criteria** 以客觀標準建立目標
- O** – **Options for Mutual Gain** 創意方案，互惠互利
- T** – **Tackle the Problem** 面對及解決問題
- I** – **Interest Focused** 專注各方利益
- A** – **Agenda** 建立議程
- T** – **Trust / Commitment** 互信 / 承諾
- E** – **Execute Commitment of Agreed Terms** 承諾執行協定之條件

# Tips for Dealing with “Difficult People”

- Look Deeper 看得更深入
- Examine Yourself 自我審視
- Be Open, Clear and Consistent  
保持開放、清晰和一致
- Change Your Approach 改變方法
- Don't Reward Bad Behavior 不要鼓勵不良行為
- Focus on the Goal of the Conversation  
專注於對話的最終目標
- Follow Up After the Initial Discussion  
跟進初步討論
- Recognize Some Things Can't Be Fixed  
認知有些事情是無法解決



SUNBURNT



SUNBURNT

*PAINFUL*

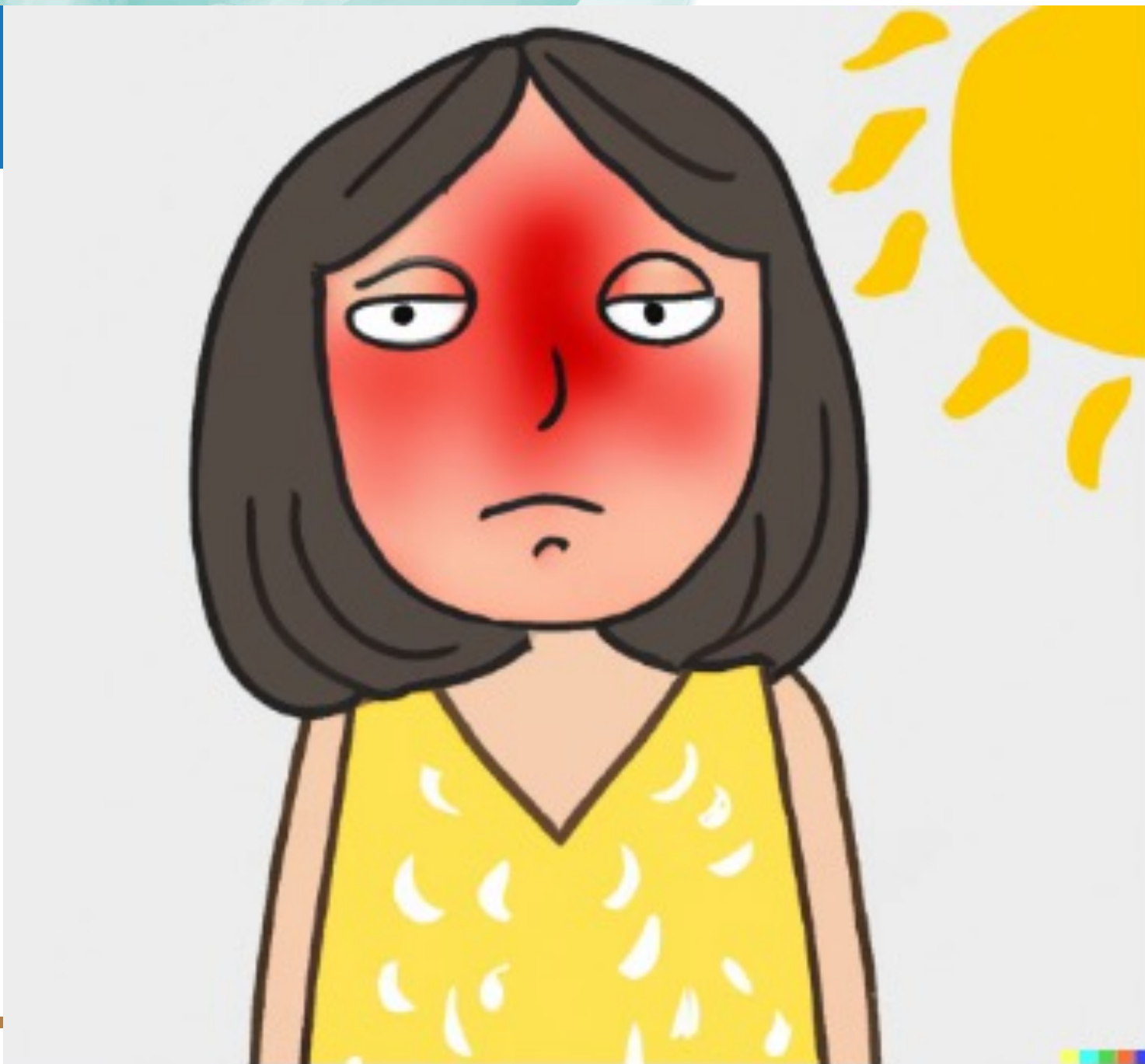


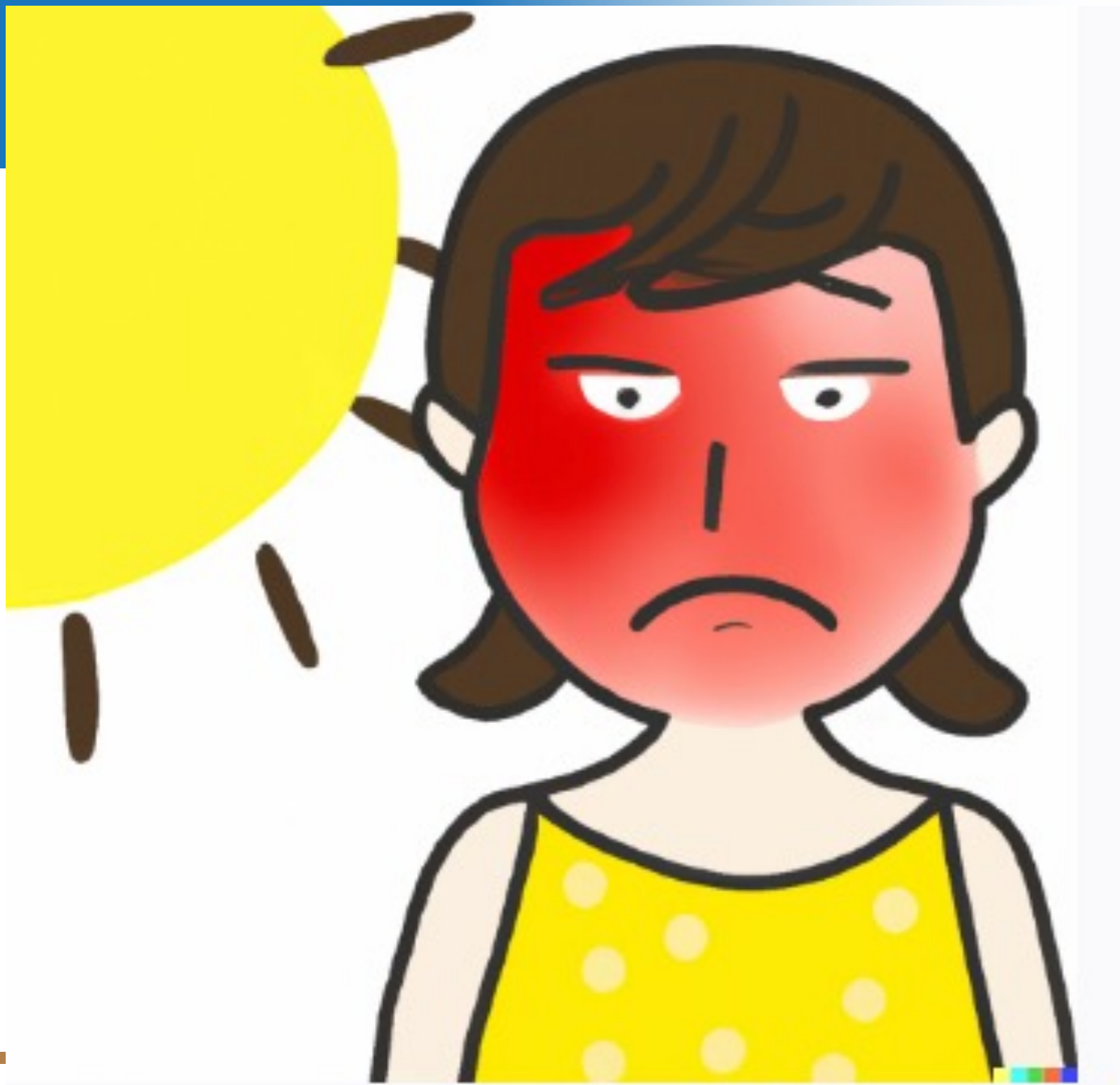
# *EMOTIONS*



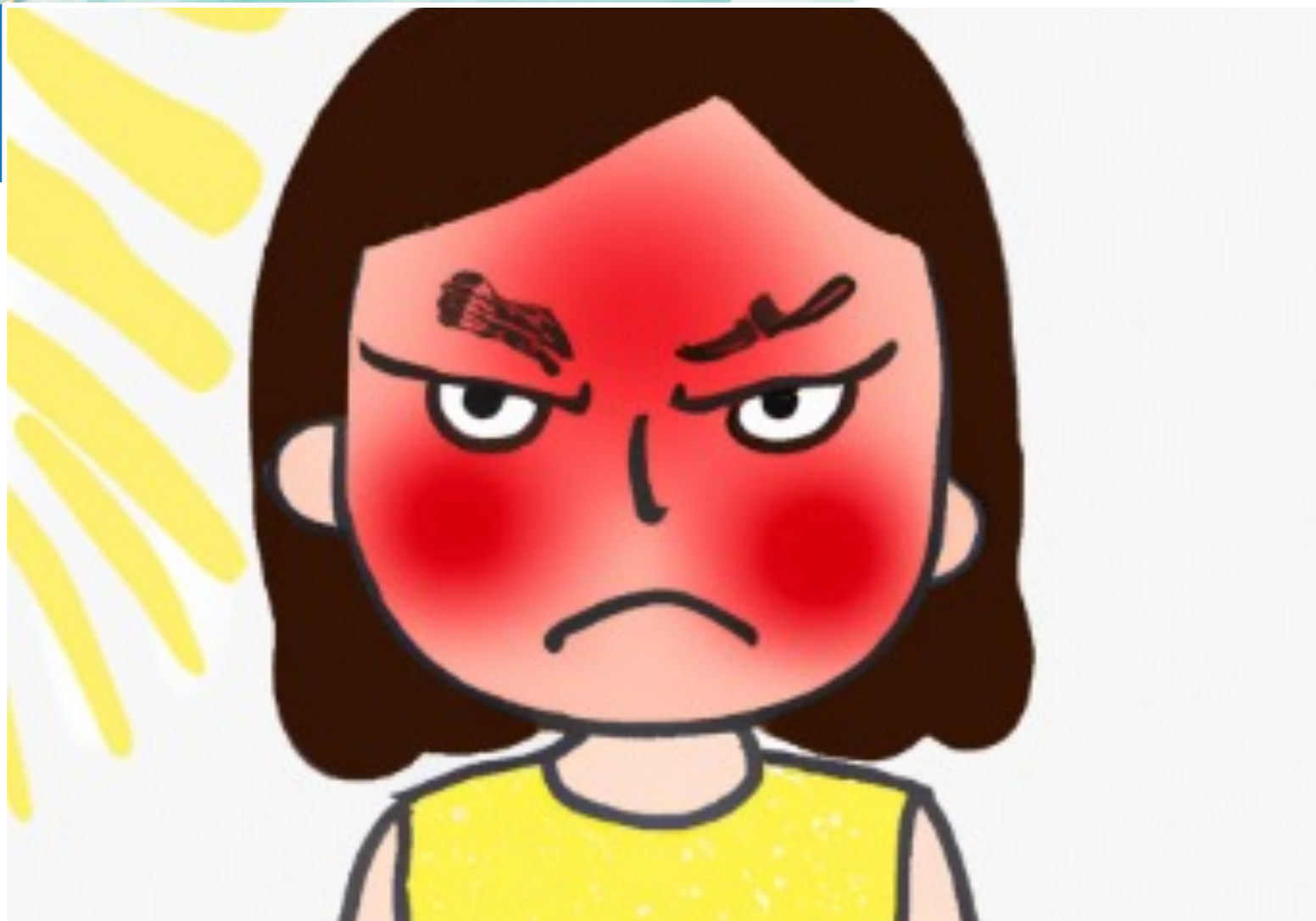
SUNBURNT

*PAINFUL*









*Emotionally Sunburnt?*

## Negative Parameters that result in failed negotiation?

- ① Lack of trust; No sincerity; Little or no communication; misrepresentation; hard-ball tactics;
- ② Parties stuck in past; My needs are the most important;
- ③ No Agreed Rules for negotiation; “the discussions were unfair”;
- ④ Negotiate / discussion under terms favorable to me;
- ⑤ Positional and Competitive attitude; A Win-Lose mentality; “I am right / fair / logical”; “What I want is right / fair / logical”.

# Same Parameters used when parties prepare pleadings for litigation / arbitration

- ① “They cannot be trusted”; “They have no sincerity”; “Let’s inflate our claims”;  
“Let’s deny their claims”;  
“他們不可信”；“他們毫無誠意”；“我們誇大指控吧”；“我們否認指控吧”；
- ② “The documents they receive will be documented; protects our position”;  
Documents served through court system; “Without Prejudice” / Positional  
letters;  
“他們收到的文件會被記錄下來”；“保護我們的立場”；“經法院傳送文件吧”；“在不影響(所有)合法權利的條件下”的信件；
- ③ “They did {what} to us in the past”; “We did not do what they said we did”;  
“他們以前對我們做過……的事情”；“我們沒有做過他們說我們做的事”

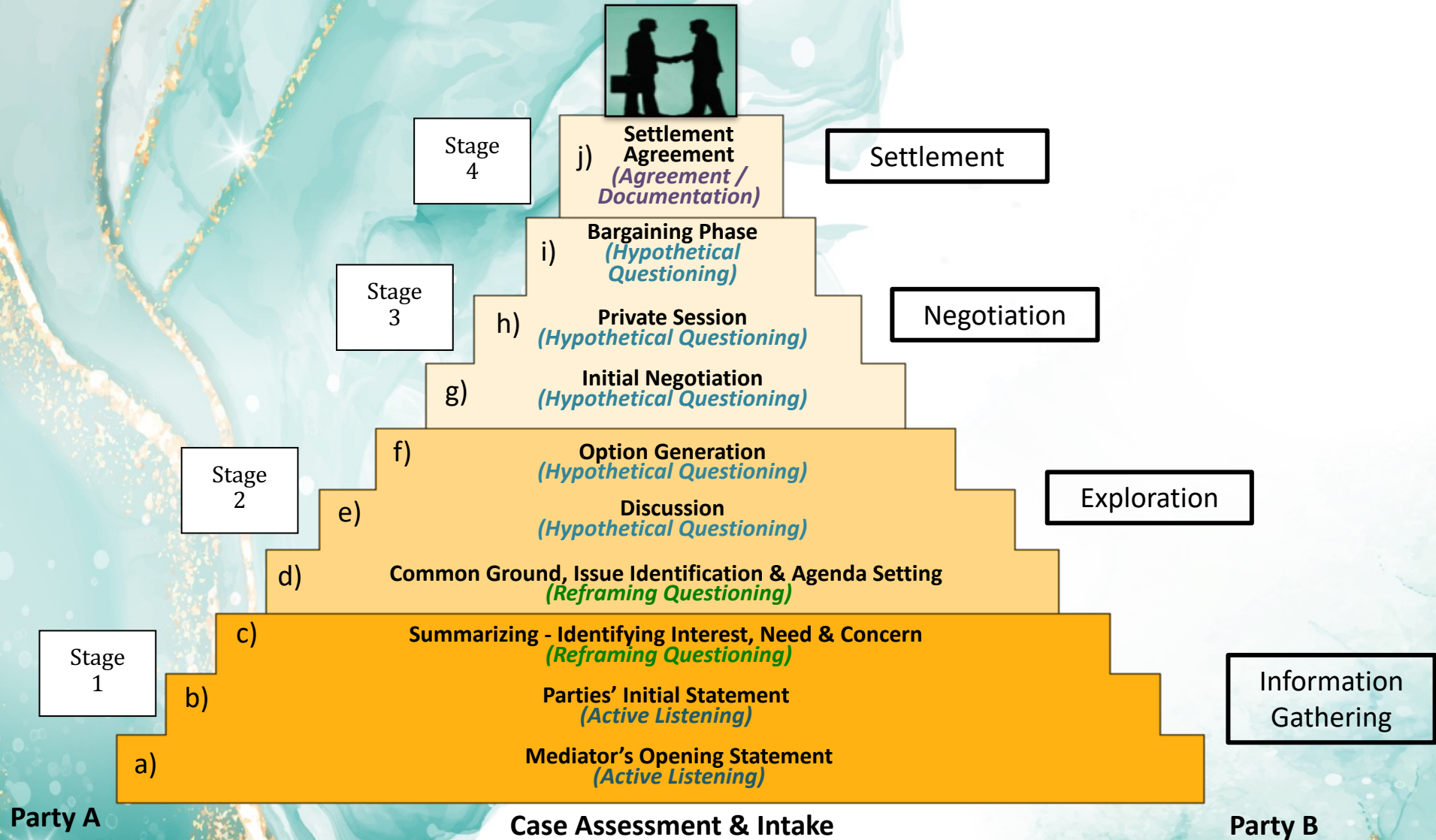
# What are the positive parameters that are conducive to a successful negotiation?

- ① Working towards the future (*N*egotiation Strategy for Future / Mutual Gain Result);
- ② Mutual Communication (*E*ffective Interactive Listening / Open Communications / Listen and Reframe);
- ③ Fair Discussion Process and Objective Criteria (*G*oal for Fair Negotiation Process / Develop Objective Criteria) ;
- ④ Open-Mind to Options (*O*ptions for Mutual Gain / Brainstorm);

# What are the positive parameters that are conducive to a successful negotiation?

- ⑤ Soft on People and Agreement Focused (**T**ackle the Problem / Separate People from Problem);
- ⑥ Mutual Understanding of the Interests of the parties (**I**nterest Focused / Positions Set Aside);
- ⑦ Agree on Issues for Discussion (**A**genda: Itemize and Prioritize);
- ⑧ Regain Mutual Trust (**T**rust / Commitment to Settle);
- ⑨ Parties confident settlement implemented (**E**xecute Commitment of Agreed Terms).

# Mediation Process Pyramid ©



- Mediation Process is structured - each step builds a foundation for next step.
- All parties must work hard to achieve goal of settlement.
- Gather information should be to identify needs, concerns and interests (N.C.I.) of the parties before Exploration of common ground/goals, issue and agenda of the parties.

- Negotiations stage commenced when Exploration stage has been built-up.
- If each layer is well-prepared, Settlement also more easily achieved.
- Mediator may have to retrace Steps. Skipping Steps can be dangerous.
- Follow the Process.

# Trainer Contact Information

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