

Tough Negotiations: Social Science and Practical Strategies for Being More Effective

Tough Negotiations

Preliminaries

Assessing the Terrain

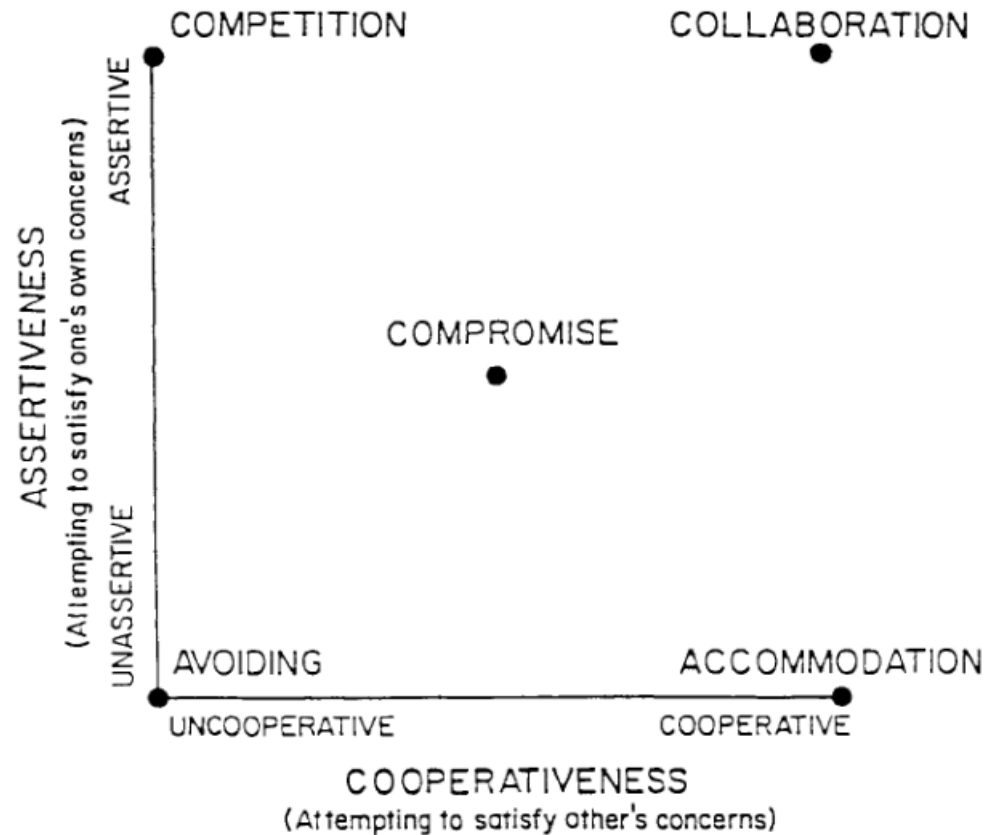


Understanding the Circumstances

1. What does each side really want, think, and feel? Why?
2. What can each side legitimately accomplish? What is each side's Best Alternative to a Negotiated Agreement (BATNA)? Why?
3. What is each side's central message? What are the arguments for and against what they need or want?
4. What opposition will you offer? And receive? How will each side respond?
5. What factors will influence decision-making?



The Difficulty of Not Being Aligned



Kenneth W. Thomas, *Conflict and Conflict Management*, 13 J. OF ORGANIZATIONAL BEHAVIOR 265, 266 (1992).

The Problem of Interference



The hierarchy of disagreement by Paul Graham

Basic Concepts in Action: Negotiation 101 with Michael Scott



Tough Negotiations

Concept 1:

Negotiating to Win

Getting your way in difficult circumstances



Increasing the Odds of Getting Your Way

Tips from a high-stakes hostage negotiation:

1. Obtain control of the negotiation in a personable way:
 - a. Communicate as the decider (as in “I am unpersuaded that”).
 - b. Project calmness and control. (“ a late-night FM DJ voice.”).
 - c. Build rapport/collaborative environment. (i.e, , “What do you mean by that?”).

2. Communicate to understand, not to be understood:
 - a. Actively listen and label (don’t say “I”)
 - b. The power of “no.”
 - c. “That’s right,” not “you’re right.”



CHRIS VOSS, NEVER SPLIT THE DIFFERENCE: NEGOTIATING AS IF YOUR LIFE DEPENDED ON IT (HARPER COLLINS PUBLISHERS 2016)

Increasing the Odds of Getting Your Way

3. Test the other side's position without being adversarial
 - a. Anchor & withstand the first shot.
 - b. Emphasize fairness.
 - c. Test positions without negativity: "Evidence to support that?"
 - d. Say "no" in a way that keeps things going: "Just can't do that."
 - e. Use loss aversion to your advantage.
 - f. Let silence do its job.

4. Use calibrated questions to build consensus & control
 - a. "How am I supposed to do that?"
 - b. Use calibrated questions when attacked; don't argue back.



Voss (continued).

Increasing the Odds of Getting Your Way

5. "You do not rise to the occasion; you sink to the level of your preparation."
 - a. Questions and counters.
 - b. What leverage do you have and how can you increase it.
 - c. Communicate based on opponent's world view.

6. Make sure the resolution will be executed:
 - a. Are any decision-makers not in the room?
 - b. Address lack of commitment (inconsistencies in tone, words, and non-verbal cues).
 - c. Time kills deals. Always.



Voss (continued).

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Concept 2:

Having Effective Conversations

Talking an adversary into or out of a position



Every Conversation is “Crucial”

Crucial Conversations:

- Opinions differ;
- The stakes are high, and
- Emotions are high.

If you handle crucial conversations well, you have breakthroughs; if not, you have impasses.

KERRY PATTERSON ET AL., CRUCIAL CONVERSATIONS TOOLS FOR TALKING WHEN STAKES ARE HIGH (MCGRAW HILL 2ND ED. 2011)



Every Conversation is “Crucial”

How to **communicate with** the other side:

1. Plan – What do I and my opponent want from this conversation?
2. Stay in dialogue – How will you close each conversation?
3. Actively listen; avoid silent treatment and interruptions.
4. Don't get hooked by emotion (or hook them).
5. Agree on a mutual purpose (commit to find or invent one, agree on rationale).
6. Separate facts from story (victim stories, villain stories, helpless stories).
7. Agree to a clear action plan.



PATTERSON (continued).

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Concept 3:

Using Good Choice Architecture

Guiding the adversary's decision



Decision Architecture

Key concepts:

1. You are a decision architect. You can establish a theme, set a default, and frame choices to influence an adversary's actions.
2. People are not rational decision-makers. Human thinking permits us to very easily make bad decisions that are not in our best interest because life is busy, complicated, and confusing.
3. Most people make choices based on how the choice is framed.
4. Defaults can be destiny, even if the defaults are bad choices.



CASS R. SUNSTEIN & RICHARD H. THALER, *NUDGE IMPROVING DECISIONS ABOUT HEALTH, WEALTH AND HAPPINESS* (Penguin Books, revised and expanded ed. 2009)

Nudges

How “nudges” work:

1. Automatic v. Reflexive System

2. The Reflexive System develops “rules of thumb” (i.e., heuristics and biases) so that every decision doesn’t take forever. Examples:

- a) “I know green means go;”
- b) Availability heuristic, or whether examples come to mind; and
- c) Unrealistic optimism.

3. Cognitive biases create inertia:

- a) Loss aversion, or the desire to avoid loss, which is more powerful than the desire to promote gain; and
- b) Status quo bias, or the sense that things should stay as they are.



NUDGE (continued).

Framing the Conversation

Kilpatrick Confidential



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Concept 4:

Sizing Up Your Opponent

Preventing styles and patterns from disrupting negotiations



Deal in Interpersonal Dynamics

Four Personality Profiles:

1. Upholders – follow external and internal rules;
2. Questioners – question the rules and follow them if they make sense to the person and make all rules internal rules;
3. Obligers – meet the expectations of others, but struggle to meet their own expectations; and
4. Rebels – resist expectations, both their own and those of others.

GRETCHEN RUBIN, THE FOUR TENDENCIES: THE INDISPENSABLE PERSONALITY PROFILES THAT REVEAL HOW TO MAKE YOUR LIFE BETTER (AND OTHER PEOPLE'S LIVES BETTER, TOO) (HARMONY 2017)



Having Effective Transactions

Transactional Analysis:

1. Basic unit of human interaction is a “transaction” – a message being sent and a message being received.
2. People get stuck in communication patterns based on what “ego state” is transmitting a message and which ego state is receiving it (parent, adult, child).
3. To be most successful, we must get to “I’m okay, you’re okay” (usually, a complimentary transaction).

ERIC BERNE, GAMES PEOPLE PLAY – THE BASIC HAND BOOK OF TRANSACTIONAL ANALYSIS (BALLANTINE BOOKS 1964)



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Concept 5:

Difficult Personalities

How to deal with pains in the . . . neck



Different v. Difficult Personalities

Different does not mean “difficult.”

1. Consider values, beliefs, mental characteristics (i.e., worrying)
2. Neurological Programming Filters: Intrinsic / Extrinsic Measurement of Success, Risk Tolerant / Risk Aversion, Keeping Things the Same / Trying Something Different, Problem Orientation / Solution Orientation.

Difficult People:

1. Perfectionists – can slow things down
2. Control Freaks – can interfere with work by others
3. Creative People – “what if I find simplicity too complicated”
4. Shapers (action-forcers & result-getters) – can upset others.
5. Aggressive / Defensive People – personality conflicts
6. Submissive People – fear & lack of confidence is frustrating



DAVID BROWN, THE ART AND SCIENCE OF DEALING WITH DIFFICULT PEOPLE (SIMON AND SHUSTER 2011).

Dealing with Difficult Personalities

1. Determine the source of the problem (i.e., not a miscommunication or misunderstanding).
2. Be sure it's not you (would others share your world view?).
3. Be assertive, not aggressive & not passive (win/win, not win/lose).
4. Be emotionally intelligent (self aware).
5. Be confident, and appear confident (don't be shook by new information).
6. Try to understand them & personalize your approach.
7. Be sure they know you heard their point of view.
8. Be in charge (be "persuaded" and "unpersuaded").



BROWN (CONTINUED).

Dealing with High Conflict Personalities

“High Conflict” Personalities - words, emotions, and behaviors indicate the following:

1. Ongoing pattern of behavior & not looking to resolve conflicts as most people are.
2. All-or-nothing approach, unmanaged emotions & extreme behavior.
3. Preoccupation with blaming others, especially a single “Target of Blame.”

If you must deal with them, be:

1. Brief.
2. Informative.
3. Friendly.
4. Focused.

Do not offer advice, admonishments, or apologies.

BILL EDDY, 5 TYPES OF PEOPLE WHO CAN RUIN YOUR LIFE: IDENTIFYING AND DEALING WITH NARCISSISTS, SOCIOPATHS, AND OTHER HIGH-CONFLICT PERSONALITIES (PENGUIN RANDOM HOUSE 2018)



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Concept 6:

The Nature of the Beast

*Nobody wants to be
wrong*



Human Nature and Human Stubbornness

“Most people, when directly confronted by evidence that they are wrong, do not change their point of view or course of action but justify it even more tenaciously. Even irrefutable evidence is rarely enough to pierce the mental armor of self-justification.”

Cognitive dissonance: The human brain is in search of ways to make it okay for us to be who we are, and to help us not feel like liars, thieves & cheats.

1. We do not make decisions by first gathering facts and then forming conclusions and values.
2. We work to justify our prejudices.
3. Echo effect

Key concept: Allow your opponent to do what you want without having to be wrong.

CAROL TAVRIS & ELLIOT ARONSON, MISTAKES WERE MADE (BUT NOT BY ME) WHY WE JUSTIFY FOOLISH BELIEFS, BAD DECISIONS, AND HURTFUL ACTS (MARINER BOOKS 3RD ED. 2020).



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Concept 7:

Hard Bargaining

Preparing for opposing tactics



The Importance of Not Overreaching



Responding to “Hard Bargain” Tactics

Idea: You should know what each side can legitimately accomplish and each side’s best alternative to a negotiated agreement (“**BATNA**”). Don’t get pressured by hard bargaining tactics.

Tactic 1: Unreasonable Anchor & Resistance to Movement.

Offer 1: \$10 million. Offer Two: \$9,999,999.

Response: Prepare (know your BATNA); hold firm.

Tactic 2: Claiming Powerlessness.

“I need to get CEO approval,” or “My hands are tied.”

Response: “Let’s talk to the real decision-maker.”

ROBERT MNOOKIN, *ET AL.*, BEYOND WINNING: NEGOTIATING TO CREATE VALUE IN DEALS AND DISPUTES (HARVARD UNIV. PRESS 2004).



Responding to “Hard Bargain” Tactics

Tactic 3: Take-It-or-Leave It.

No counter-offers welcome.

Response: Ignore the tactic; label it; stay focused on substance.

Tactic 4: Failure to Counter.

“If you’ll get to X, we’ll respond.”

Response: “It’s your move.”

Tactic 5: Upward Barrage (Wrong-Direction Responses).

Offer 1: \$10 million; Offer 2: \$11 million.

Response: Label the tactic; respond when corrected.

Response: Be “unpersuaded” (but don’t call the person a liar).

MNOOKIN (continued).



Responding to “Hard Bargain” Tactics

Tactic 6: Personal Attacks.

Response: Label and re-direct.

Tactic 7: Hyperbole and Misrepresentation.

Response: Recognize, ignore, label, contextualize using reality.

Tactic 8: Threats.

Response: Recognize, ignore, label, contextualize using reality.

Tactic 9: Belittling Your Position.

Response: Disregard; focus on substance.

Tactic 10: Good Cop v. Bad Cop

Response: Recognize; label; stick to your plan.

MNOOKIN (continued).



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