

Tough Negotiations

Social Science and Practical Strategies for Being More Effective



Introduction

“Who am I? Why am I here?”

The Backdrop: Course 1 – *Using Basic Human Tendencies To Develop An Effective Negotiation Strategy*, available at this [On-Demand link](#)

- We're not solely rational decision-makers, and social and behavioral characteristics greatly influence decision-making.
- Decision Architecture (Nudges, Defaults, Heuristics, and Biases).
- Time & Space to Agree (Cognitive Dissonance).

Today is the next step: How do we handle a tough negotiation in which someone or something is complicating the process (our team, the other side, or a pandemic)?

What makes a negotiation “tough”?

- Simply put, the circumstances are unfavorable, such that the decision we need or want will be difficult to obtain.
- Someone or something is not only contributing to, but also *intensifying* a conflict.
- Conflict is “the process which begins when one party perceives that another has frustrated, or is about to frustrate, some concern of his [or hers].” KENNETH W. THOMAS, CONFLICT AND CONFLICT MANAGEMENT, 13 J. OF ORGANIZATIONAL BEHAVIOR 265, 266 (1992).
- What is creating your conflict, and what are the incentives to resolve it? And what is making it worse than usual?

Tough Negotiations

Concept 1:
Assessing the
Terrain
(Preparing for the
Situation)

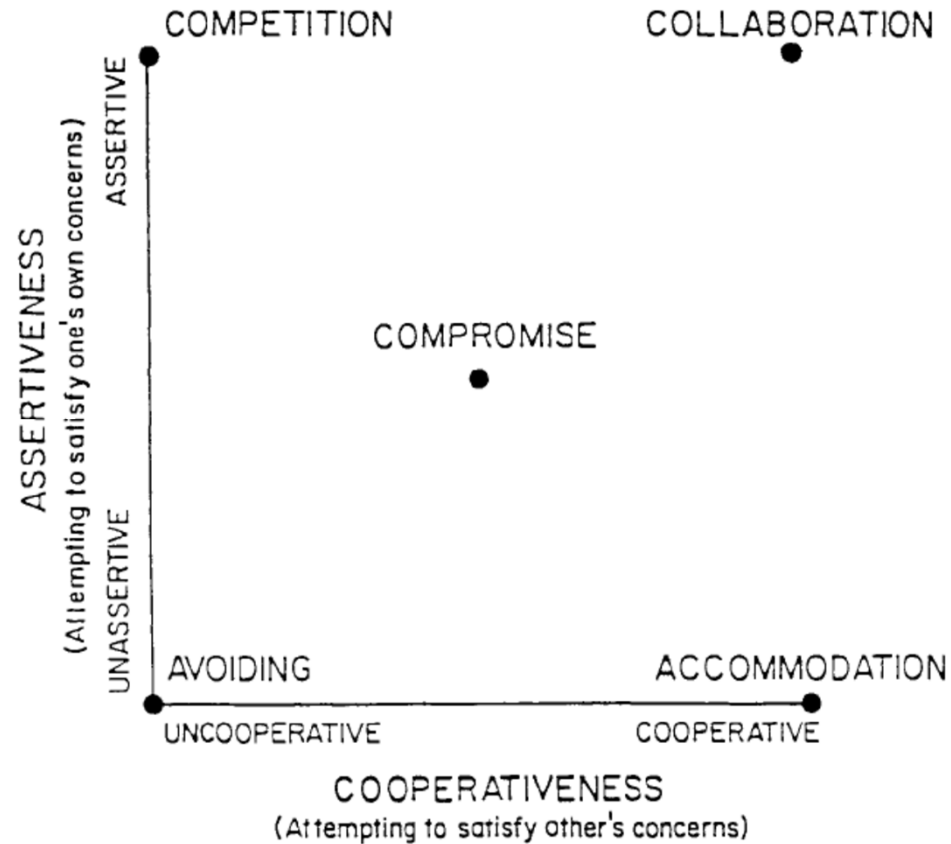


Understanding the Circumstances

Some questions:

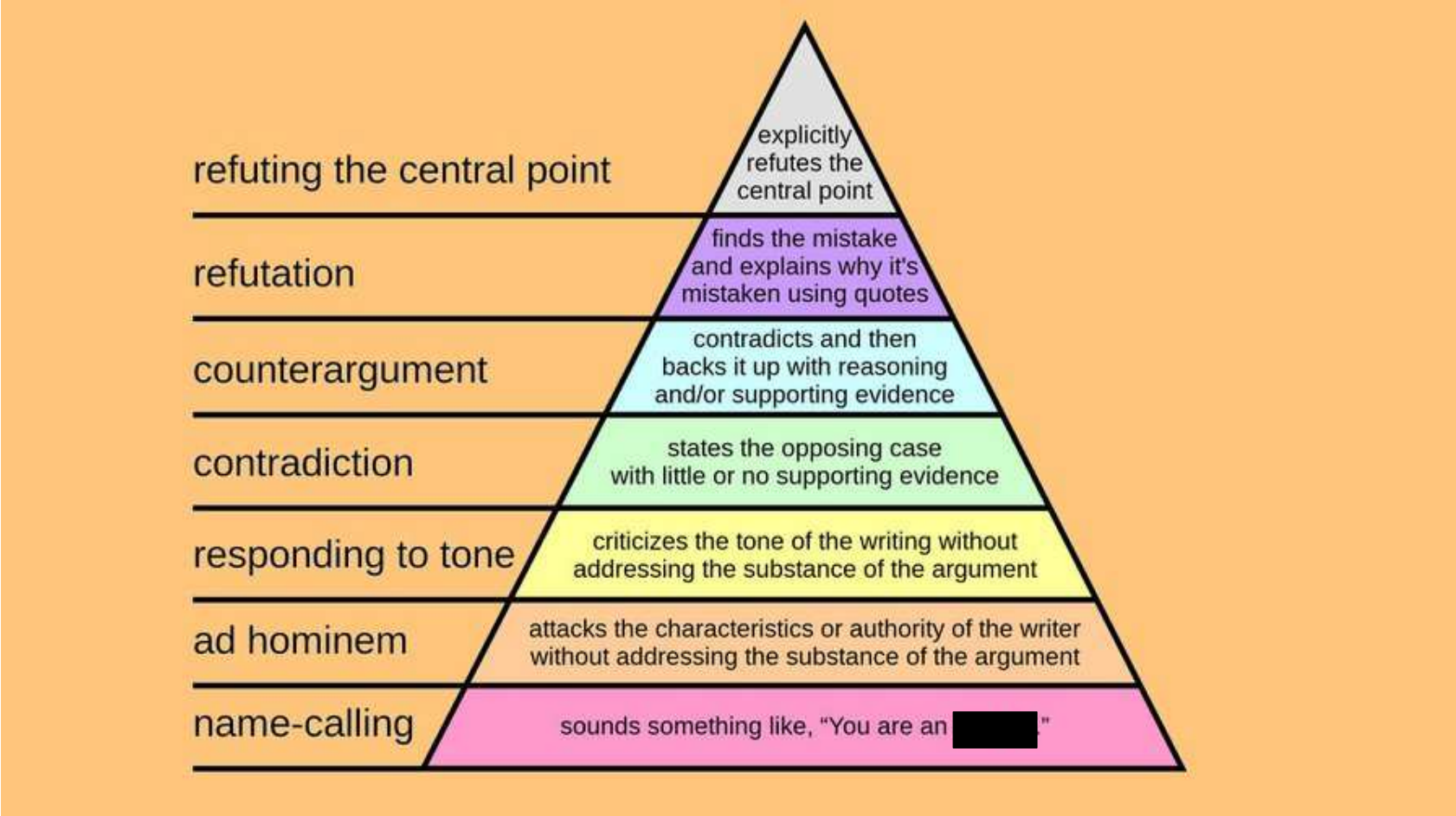
1. What does each side really want, think, and feel? Why?
2. What can each side legitimately accomplish? What is each side's Best Alternative to a Negotiated Agreement (BATNA)? Why?
3. What is each side's central message? What are the arguments for and against what they need or want?
4. What opposition 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

Tough Negotiations

Concept 2: What is the Matter with These People?
(Preparing for the People Involved)



Different v. Difficult Personalities

- Different does not mean “difficult”
- Different world views can be influenced by:
 - Values (punctuality or accuracy).
 - Beliefs (political, social, etc.).
 - Physical and Mental Characteristics (a tendency to worry).
 - Neurological Programming Filters:
 - Intrinsic / Extrinsic Measurement of Success.
 - Risk Tolerant / Risk Aversion.
 - Keeping Things the Same / Trying Something Different.
 - Problem Orientation / Solution Orientation.

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

Negotiating with Different Personalities

- Before escalating to a nuclear level of negotiation, try to iron out simple personality differences by open dialogue, by using the techniques discussed later in this presentation.
 - Crucial Conversations.
 - Never Split the Difference.
- Consider having a friendly conversation to set the tone or clear the air.
- “Separate the personalities from the problem.” ROGER FISHER, WILLIAM URY AND BRUCE PATTON, GETTING TO YES: NEGOTIATING AGREEMENT WITHOUT GIVING IN (PENGUIN 3RD ED., UPDATED AND REVISED, 2011).

Identifying Difficult Personalities

Six Types of 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

BROWN (CONTINUED).

Dealing with Difficult Personalities

Strategies:

1. Determine the source of the problem.
 - a. Analyze the 6 questions (who, what, when, where, why & how).
 - b. Miscommunication? Simple personality conflict?
 - c. Don't address the wrong problem.
2. Be sure it's not you.
 - a. Are communications clear?
 - b. Tone?
 - c. Structure of interactions create a negative impression?
 - d. Would others share your view?

BROWN (CONTINUED).

Dealing with Difficult Personalities

3. Be assertive, not aggressive & not passive.
 - a. Win/win, not win/lose, or lose/win.
 - b. Even if you want to win the negotiation, the interpersonal dynamics do not have to be a conflict.
 - c. Don't bully or be bullied.
4. Be emotionally intelligent.
 - a. Self aware.
 - b. Control your reaction (think of usual reaction to this person) & manage your motivation.
 - c. Actively listen; listen empathetically.
 - d. Make socially wise choices in responding.

BROWN (CONTINUED).

Dealing with Difficult Personalities

5. Be confident, and appear confident.
 - a. Set a tone that you will be polite, but formidable.
 - b. Own a lack of knowledge, and maintain confidence; don't let it get the better of you.
6. Try to understand them & personalize your approach.
 - a. Works because of availability heuristic and cognitive dissonance.
 - b. How do you think they feel? What do you think they think?
 - c. Listen / Mirror.
 - d. Make a Personal Plan.
7. Be Sure They Know You Understand Their Point Of View.
 - "I've heard and understand; here's my decision"

BROWN (CONTINUED).

Dealing with Difficult Personalities

8. Be a Leader.

- a. How should you lead? Overtly? Or by convincing the other side that you are adopting his ideas?
- b. Take charge – set the tone.
- c. Take charge – set goals that are clear and focused: Specific, Measurable, Agreed, Realistic, Timed.
- d. Communicate clearly.
- e. Be the decider – persuaded and unpersuaded.
- f. Set firm boundaries and limitations.
- g. Set consequences for unpleasantness.
- h. Redirect the conversation from unpleasantness to substance that addressed your needs.
- i. Use positive feedback where possible.

BROWN (CONTINUED).

Dealing with High Conflict Personalities

- “High Conflict” Personalities:
 - Ongoing pattern of behavior.
 - All-or-nothing approach.
 - Unmanaged emotions.
 - Extreme behavior.
 - Preoccupation with blaming others, especially a single “Target of Blame.”
 - Not looking to resolve conflicts as most people are.
- Identify them using words, emotions, and behaviors.

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)

Dealing with High Conflict Personalities

- Avoid high conflict personalities if you can.
- Avoid being close to them.
- If you must deal with them, be:
 - Brief.
 - Informative.
 - Friendly.
 - Focused.
- Do not offer advice, admonishments, or apologies.

BILL EDDY, BIFF: QUICK RESPONSES TO HIGH-CONFLICT PEOPLE, THEIR PERSONAL ATTACKS, HOSTILE EMAIL AND SOCIAL MEDIA MELTDOWNS (UNHOOKED BOOKS 2ND ED. 2014)

Tough Negotiations

Concept 3: When Someone's Driving A Hard Bargain
(Preparing for Opposing Tactics)



Responding to “Hard Bargain” 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.”

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

- No counter-offers welcome.
- Response: Ignore the tactic; label it; stay focused on substance.

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

Responding to “Hard Bargain” Tactics

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.

Tactic 6: Personal Attacks.

- Response: Label and re-direct.

Tactic 7: Hyperbole and Misrepresentation.

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

MNOOKIN (continued).

Responding to “Hard Bargain” Tactics

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).

Tough Negotiations

Concept 4:
Negotiating with
Apparent Hostage
Takers
(Winning Others
Over)



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. Use language that puts you in the role of being the decider (as in “I am unpersuaded that . . .”).
 - b. Project calmness and being in charge. (Use the right tone of voice - “ a late-night FM DJ voice.”).
 - c. Build rapport and create a collaborative environment. (Best strategy is asking questions like, “What do you mean by that?”).

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

Increasing the Odds of Getting Your Way

2. Communicate to understand, not to be understood:
 - a. Actively listen and label adversary's emotions and sentiments, without using the word "I." For example, "[I]t looks like you're frustrated about"
 - b. Force "yes" and "no" responses, but "no" is more powerful than "yes" because people often say "yes" to avoid a negative interaction. For example, "Have you given up on this process?"
 - c. The ultimate goal, and generally the turning point is when your adversary says, "That's right." Note that it needs to be "that's right" and not "you're right."

Voss (continued).

Increasing the Odds of Getting Your Way

3. Test the other side's position without being adversarial ("Bend the other side's reality"):
 - a. Withstand the first shot.
 - b. Emphasize fairness: "We just want what's fair."
 - c. Test positions without being negative: "It sounds like you are willing to provide evidence to support that."
 - d. Say "no" in a way that keeps the negotiation going: "I'm sorry but I just can't do that."
 - e. Use loss aversion to your advantage.
 - f. Anchor.
 - g. Let silence do its job.

Voss (continued).

Increasing the Odds of Getting Your Way

4. Use calibrated questions to build consensus, to move your adversary, and to create the illusion of control.
 - a. A calibrated question is one that asks for your opponent's knowledge or information to overcome your problem(s).
 - b. It forces you to be on the same team.
 - c. You must exercise self-control.
 - d. The best one is, "How am I supposed to do that?"
 - e. Use calibrated questions whenever you are attacked to avoid arguing back.

Voss (continued).

Increasing the Odds of Getting Your Way

5. Have your plan, and then have a good Plan B (and good plans C – Z): “You do not rise to the occasion; you sink to the level of your preparation.”
 - a. Know your personality (accommodator, assertive, or analyst), and bargain hard. Prepare by knowing how you will address your proclivities in advance.
 - b. Be agile, and use questions to pull out the surprises in the negotiation (which you should try to anticipate).
 - c. Look for ways to increase your leverage.
 - d. Positive: things you can give.
 - e. Negative: things you can take away.
 - f. Normative: things that fit your opponent’s world view.
 - g. When something unusual or crazy happens, that is the time to assert leverage.

Voss (continued).

Increasing the Odds of Getting Your Way

6. Make sure the resolution will be executed:
 - a. Discover identity of any decision-makers not in the room.
 - b. Address lack of commitment (inconsistencies in tone, words, and non-verbal cues) with labeling questions.
 - c. Verbose people are sometimes using words to hide or avoid facts or inconsistencies.
 - d. People who use “we” are often influential decision-makers.
 - e. Use the informal Rule of Three: If a person agrees to something three times, then she or he will usually stick with it.
 - f. Time kills deals. Always.

Voss (continued).

Tough Negotiations

Concept 5: Having Effective Conversations (Talking Them Into or Out of Something)



Every Conversation is a Crucial Conversation

Crucial Conversation:

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

The idea is that 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 a Crucial Conversation

How to communicate with the other side:

1. Plan – What do I want from this conversation, and what does my opponent want?
 - a. Empathy.
 - b. Active listening.
 - c. Positive intent.
2. Stay in dialogue – How will you close each conversation?
3. Make it safe.
 - a. Beware of “silence” and “violence”.
 - b. Active listening.

PATTERSON (continued).

Every Conversation is a Crucial Conversation

How to communicate with the other side:

4. Don't get hooked by emotion (or hook them).
5. Agree a mutual purpose (commit to have one, agree on rationale, invent one if necessary).
6. Separate facts from story (victim stories, villain stories, helpless stories).
7. Agree to a clear action plan.

PATTERSON (continued).

Tough Negotiations

Concept 6:
Personalities Matter
(Knowing Who You
Are Dealing With)



Deal in Interpersonal Dynamics

Four Personality Profiles

- Upholders – follow external and internal rules;
- Questioners – question the rules and follow them if they make sense to the person and make all rules internal rules;
- Obligers – meet the expectations of others, but struggle to meet their own expectations; and
- 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)

Tough Negotiations

Concept 7: Having Effective Transactions With Others
(Not Getting Caught up in Their Games)



Having Effective Transactions

Transactional Analysis:

- Basic unit of human interaction is a “transaction” – a message being sent and a message being received.
- How well a transaction works depends on what ego states are communicating.
- Crossed v. complimentary transactions.
- 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)

Having Effective Transactions

Transactional Analysis:

Person 1

Parent
(authority; in control)

Adult
(factual; lives in here and now)

Child
(emotional; seeks to impress)

Person 2

Parent

Adult

Child

BERNE (continued).

Having Effective Transactions

Transactional Analysis: A Complementary Transaction Works

Person 1

Parent
(authority; in control)

Adult
(factual; lives in here and now)

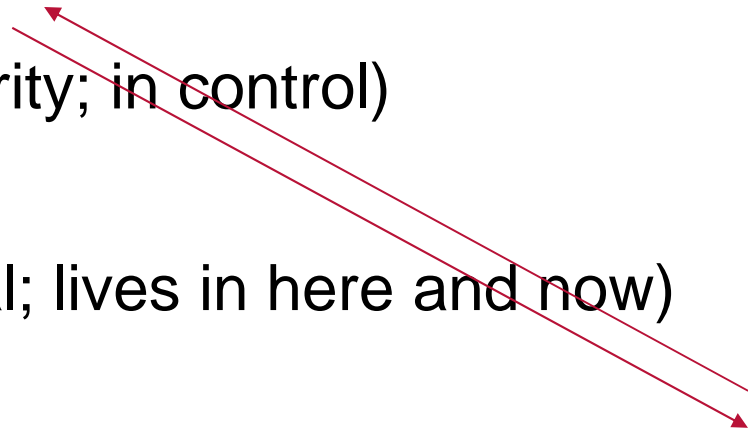
Child
(emotional; seeks to impress)

Person 2

Parent

Adult

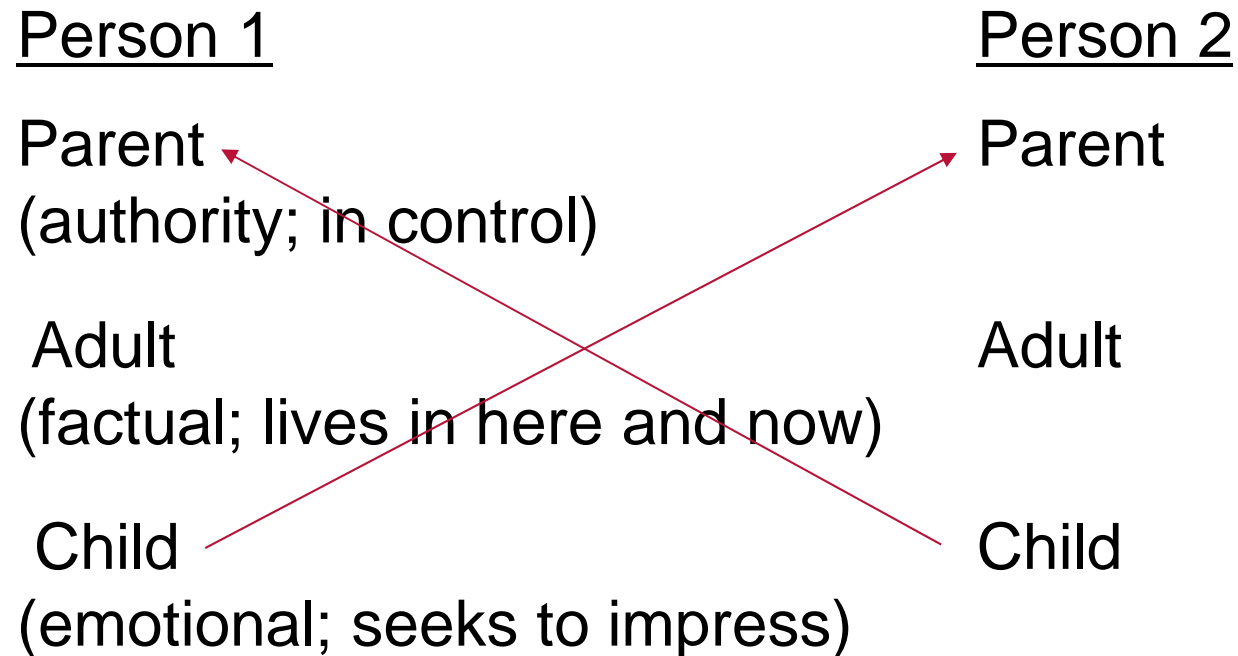
Child



BERNE (continued).

Having Effective Transactions

Transactional Analysis: A Crossed Transaction Does Not Work



BERNE (continued).

Having Effective Transactions

Game Theory:

- Idea: Many people are playing games almost all of the time; it validates the way they were raised and how they feel life should be. It's an excuse to be in the state you want to be in at any given time.
- Examples:
 - “Now I’ve Got You, You Son of A [Gun].”
 - Example: “If It Weren’t for You.”
 - “I’m Only Trying to Help.”
 - Why don’t you – yes, but.”
- Recognize a game; label it; get out of it.

BERNE (continued).

Tough Negotiations

In Closing
(Yes, That's Me)



Preparing for your Next Negotiation

1. What are your goals?
2. What are the other side's goals?
3. What kind of leverage do you have?
4. What are your beginning and ending positions?
5. What is your plan for getting what you want/need?
6. What will you do if the other party is difficult?
7. How will you overcome hard bargaining tactics?
8. What calibrated questions will you ask?
9. How will you keep the conversation going?
10. How will you handle interpersonal dynamics?
11. How will you avoid playing games?
12. What attorney will you call if you need help?

Questions?



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