Step 4. Assess the Character of the Conflict as Constructive or Destructive

“I am become mine enemy.”
—Source unknown

“Grief and disappointment give rise to anger, anger to envy, envy to malice, and malice to grief again, till the whole circle be completed.”

In this chapter, you will learn...

- The four components of Morton Deutsch's theory of constructive and destructive conflict.
- Why Morton Deutsch theorized that cooperation is more likely than competition to produce constructive conflict.
- Why conflict has the amazing capacity to become what the disputants think it is.
- Why it's easier for a cooperative conflict to become competitive than vice versa.
- Some criteria for assessing a conflict as cooperative or competitive.
- Strategies and tactics for turning a competitive conflict into a cooperative one.
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“*I thought I knew him, but I was wrong.*” If you’ve ever been unfortunate enough to be caught up in a destructive conflict with a former friend, coworker, lover, or spouse, you are probably familiar with this sentiment. Disputants involved in longstanding relationships that are going bad frequently express a sense of shock, grief, and betrayal as the person they thought was so good, trustworthy, and predictable seems to reveal him- or herself as a wolf in sheep’s clothing.

Do people routinely cover up their evil side, only to reveal it in times of conflict? It sometimes seems that way. All of us are familiar with destructive conflict—we see it in our personal lives, in literary fiction and film, in the news media. It is a hallmark of destructive conflict that each side conceives of the other as evil and sees its own violent or coercive behavior as self-defense or righteous retribution.

Social scientists have puzzled over what characteristics make conflict destructive and why some forms of conflict seem to be associated with such extreme polarizations of perspective and attitude. The leading light in this field, for a period approaching half a century, is clinician and scholar Morton Deutsch (Bunker, Rubin & Associates 1995). In this chapter, we will explore his seminal theory of cooperation and competition and uncover some of the insights his theory holds for conflict diagnosticians.

**MORTON DEUTSCH’S THEORY OF CONSTRUCTIVE AND DESTRUCTIVE CONFLICT**

Deutsch’s ideas about what makes conflict constructive and destructive are well summarized in his 1973 work, *The Resolution of Conflict: Constructive and Destructive Processes*. Although Deutsch’s work is complex and scholarly, it can be condensed into four basic premises:

1. Conflict is either cooperative or competitive.
2. Cooperation tends to be constructive, and competition tends to be destructive.
3. Cooperation and competition tend to be self-fulfilling prophecies: perception becomes reality.
4. Cooperation easily turns into competition, but not vice versa.

Each of these premises has important and useful implications for conflict diagnosticians.

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1 For an enlightening review of the life of Morton Deutsch, see Bunker, Rubin & Associates 1995, xix–xxv.
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Premises of Deutsch’s Theory

Premise 1: Conflict Is Either Cooperative or Competitive. Deutsch started with the premise that any conflicted relationship is either primarily cooperative or primarily competitive. As you will recall from Chapter 1, interpersonal conflict is characterized by interdependence, that is, what one disputant does affects the other disputant, either actually in fact or according to the perceptions of the parties. Deutsch believes that all interpersonal conflict can be categorized as cooperative or competitive, depending on the nature of their apparent interdependence.

Cooperative conflict is characterized by the disputants’ beliefs that interdependence is primarily promotive: in other words, the belief that what each disputant does affects the other disputant in a positive manner. If I am a disputant in a cooperative conflict, I will tend to believe that, if you, the other disputant, try to help yourself, it will tend to promote my interests, and vice versa.

Competitive conflict, on the other hand, is characterized by the disputants’ beliefs that interdependence is mainly contrient: what each disputant does affects the other in a negative manner. If I am in a competitive conflict, I will tend to believe that, if you, the other disputant, try to help yourself, it will tend to harm me and, if I try to help myself, it will tend to harm you.

Deutsch describes ten essential characteristics of cooperation and competition. These characteristics flow from the differences in apparent interdependence.

How the Conflict Is Characterized in the Minds of the Disputants. Since a cooperative conflict is perceived as promotively interdependent, the disputant perceiving a conflict as cooperative will tend to see the conflict as a joint problem to be solved: that is, if the problem is solved for one disputant, it will also tend to be solved for the other. Metaphorically, if the situation is thought of as a tug-of-war, the disputant will think of the other disputant as being on his or her side, pulling in the same direction. In a competitive conflict, the opposite is true. Since the disputant in a competitive conflict sees him- or herself as vulnerable to harm if the other disputant’s interests are addressed, a competitive conflict is usually perceived as a contest, with one winner and one loser.

Communication in Cooperation and Competition. Since the disputant in a cooperative conflict sees the goals of the other disputant as promoting his or her own interests, it appears to be in his or her best interests to share as much information as possible. Thus, cooperation is characterized by open, honest communication of relevant information. In contrast, since the interests of disputants in a competitive conflict are seen to be in opposition, competition is characterized by efforts on the part of the perceiving disputant to avoid open and honest communication. In competitive conflict, disputants tend to be suspicious of one another, fearing that information they share will be used against them. A disputant who sees him- or herself in a competition will communicate as little as possible. In addition, since their interdependence is contrient, there is a tendency for disputants in a con-
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petition to believe that they can protect their own interests by misleading the other disputant. Accordingly, disputants in competition are likely to lie or mislead one another about information relevant to the conflict.

Lack of communication in a competitive conflict breeds a phenomenon known as autistic hostility. In autistic hostility, the taciturn reactions of the disputants to the escalating conflict keep them from clearing the air. The result is that disputants, suspicious of one another’s motives in every action, don’t have an opportunity to have their suspicions allayed by explanation. Hence, suspicions tend to fester and multiply. The following is an example, from a divorce mediation, which shows how anger can prevent disputants from clearing the air:

The husband and wife, both employed full-time, trying to manage their own businesses on the side, and the parents of two lively, elementary-aged kids, entered the mediation session in a state of mute rage and fear. When prodded by the mediator, each had their own version of a vicious confrontation that had recently occurred at the family home. After a period of angry accusations, the mediator asked the couple to begin to think more in terms of what each needed from the other, so that they could function more effectively.

“Stop treating me like a thief,” said the husband immediately.

“Could you be more specific?” asked the mediator.

The husband bitterly related his humiliation when, as he went from room to room to retrieve belongings, so that he could move them to his new residence, the wife hovered over him, watching every move.

“Could you perhaps arrange to be out of the house while Gene gets his things, so that he could move them to his new residence, the wife hovered over him, watching every move.

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This reply drew a stony glare from Gene.

“Why?” asked the now discouraged mediator. Evidently, thought the mediator, Laura really thinks he’s out to steal her blind. This was one of those moments of mediator bafflement. What should she do next?

It took several unsuccessful attempts by the wife to discuss the situation. The husband’s feelings were so deeply hurt by apparently being accused of theft that he was unable to allow Laura to get more than a few words out before reacting in anger.

Finally, after about the fifth try, the wife was able to get an entire paragraph out unimpeded. “I need to see everything he takes,” she said with a degree of exasperation at the interruptions and the mediator’s slow-wittedness, “because I can’t find anything as it is. The only way I can figure out whether something is gone from the house or just lost, is to watch to see whether he takes it. He has two kids and four jobs, and I can’t find anything from one minute to the next. I don’t care what he takes and I’m not at all worried about his ‘stealing’ stuff. He needs something to live on, too. If I can’t find the kid’s socks, I just need to know whether they’re here somewhere or whether he took them to his house, so I know whether I have to replace them.”

This revelation brought down the house. After a period of helpless laughter, the couple was, with the mediator’s help, able to develop an agreement
that allowed Laura an opportunity to review what Gene was taking. Moreover, the episode served as a way for the couple to remind themselves that they were able to work together constructively when, later in the mediation, other impasses arose.

In the preceding example, the husband misinterpreted the wife's actions as hostile and insulting, whereas she was apparently only trying to manage the mess. The fact that the husband was feeling humiliated colored the few words he chose to direct to his spouse, and she was no more successful at being civil and amicable with him. Since the lines of communication between them had been severely disrupted, neither spouse had been able to clear up the misunderstanding until mediation provided a controlled forum for this to occur.

Coordination of Effort in Cooperation and Competition. Since a disputant who sees the conflict as cooperative believes that the other disputant's efforts will help him or her, the disputant will tend to try to coordinate his or her efforts with those of the other disputant. Thus, cooperation is characterized by efforts by the disputants to pool their efforts to gather information and solve the problem. For example, if a conflict involves the sale of property, cooperating disputants are likely to join together to choose an appraiser to value the property. In contrast, disputants in competition are more likely to mistrust the efforts of one another to resolve the conflict and to believe that efforts to help the other disputant will be personally harmful. Hence, competition is characterized by duplication of effort and inefficiencies in time and money spent in gathering relevant information and getting the problem resolved. If the sale of property involves disputants who believe they are competing rather than cooperating, each is likely to want to hire his or her own appraiser; when the appraisals are completed, the disputants are likely to spend time battling over whose appraisal is accurate.

Efforts of the Disputants on One Another's Behalf. Obviously, a disputant who believes that meeting the other disputant's interests will meet his or her own interests has good reason to help the other disputant: it will help him or her as well. Thus, cooperation is characterized by efforts by the disputants to help one another. In contrast, competition is characterized by efforts by each disputant to obstruct the other, since the disputant sees meeting the other disputant's interests as personally harmful. Since cooperating disputants try to help one another, they tend to accumulate real-world evidence that the relationship is, in fact, cooperative, whereas competing disputants tend to have their beliefs confirmed that the other disputant is trying to undermine them.

Responses to the Suggestions of the Other Disputant. The reactions of one disputant to suggestions by the other disputant are controlled by the attitudes engendered by their perceptions. In cooperative conflict, a disputant will tend to see the suggestions of the other disputant as motivated by a sincere desire to help, since everyone's goals are perceived to be complementary. Accordingly, in a cooperative conflict, suggestions tend to be welcomed, approved of, or at least taken at face value.
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The contrary tends to be true during competition. Since the disputant believes that the other disputant is motivated to do him or her harm, he or she will tend to mistrust, and be suspicious of, suggestions that the other disputant makes. The discounting of suggestions made by the other disputant in a competitive conflict is referred to as reactive devaluation.

Reactive devaluation can lead to some seemingly absurd results. Imagine that Browne and Greene had an auto accident, which resulted in personal injury to Browne and damage to his car. They have been involved in an acrimonious and hostile negotiation for the past six months. Browne has had his vehicle examined and has sought medical care. His attorney concludes that he should get about $50,000 from Greene for damages. Now, suddenly, after months of contentious thrust and counter-parry, Greene offers Browne the $50,000 he has hoped for. Reactive devaluation is likely to prompt Browne to question the original assessment from the attorney. Suspicious of anything Greene does, Browne will probably wonder: Is there something his attorney missed? Does Greene have an ulterior motive? Does Greene have some sort of sabotage in mind? In fact, Greene may simply have evaluated the merits of his position and decided to settle at a reasonable sum. But, instead of accepting the offer graciously and ending the conflict, Browne is likely to delay while his attorney conducts a reevaluation, or even to reject the offer altogether. Greene is likely to resent this reaction to his offer, and the delay in responding may even prompt him to withdraw it.

Feelings of the Disputants for One Another. There is a great deal of evidence from social psychological research indicating that disputants in a cooperative relationship tend to develop feelings of friendliness and positive regard for one another. If the disputant feels that helping the other disputant has personal advantages, he or she will tend to do many things, in his or her own apparent self-interest, that help the other disputant. The other disputant is likely to notice these friendly and helpful efforts, and they tend to breed positive regard. This positive regard, in turn, promotes friendly behavior in the second disputant and increased feelings of friendliness in the first disputant. Thus, cooperation tends to breed feelings of friendliness. Similarly, a disputant who sees a conflict as competitive will tend to behave in a way that obstructs and misleads the other disputant, promoting the belief on the part of the other disputant that he or she is “the enemy.” In short, competition tends to breed feelings of enmity and hatred between disputants. In an extreme case of escalated conflict, disputants are apt to demonize one another—that is, to see one another as inherently evil.

Effect of Cooperative Behavior on the Disputants’ Egos. In a cooperative conflict, cooperating with the other disputant is a comfortable outgrowth of the self-interest of each disputant. The feelings of friendliness that tend to grow out of a cooperative relationship further motivate the disputants to be helpful to one another. Thus, in a cooperative conflict, cooperating with the other disputant gives a boost to the ego. In contrast, the feelings of enmity engendered by competition, as well as the conceptualization of competitive conflict as a contest, produce a much different effect on the disputants’ egos. In a competitive conflict, cooperating with the other
Cooperation can promote feelings of friendliness among disputants. 
Lockyer Romilly, Getty Images Inc.—Image Bank

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disputant is emotionally tantamount to “sleeping with the enemy.” And, since the conflict is seen as a contest with a winner and a loser, the act of cooperating with the other disputant creates a profound sense of loss of face. Hence, in a competitive conflict, cooperating with the other disputant can often be psychologically intolerable. For this reason, it is extremely difficult to convince disputants to adopt cooperative stances once a conflict has become competitive.2

Perception of Similarity and Difference. The positive and negative regard that cooperating and competing disputants hold for each other have implications for their perceptions about one another. People who like one another tend to focus on, and even inflate, mutual similarities, while they tend to ignore differences. The old adage “love is blind” refers to the tendency for people who have a high regard for one another to ignore shortcomings and obsess on wonderful and heroic qualities seemingly possessed by one another, as well as the ways in which the loved one seems just like the self. Thus, cooperation is characterized by the perception of similarities among disputants. In contrast, when a relationship sours, as in competitive conflict, these biases fade and are replaced by an opposing set of biases that emphasize apparent differences between people. These biases, both in favor of those we like and against those we dislike—are probably the result

2 Some mediators recognize that, to counter this tendency, tactics can be used that convince the disputant that somehow his or her cooperative conduct makes the disputant “better than” the enemy.
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A Brief Cognitive Dissonance Exercise

Think of a politician, a talk-show host, an activist, or another public figure whom you particularly dislike. On an empty sheet of paper, draw a line down the center. On one side of the paper, write down all the qualities of that person that are similar to yours. On the other side, write down qualities that are unlike yours. Compare the list. Is the list of unlike qualities longer than the list of like qualities? That’s to be expected. Now look at the list of like qualities. Do they make you uncomfortable? Do you want to explain them away? That’s the cognitive dissonance effect.

Now try the same exercise using someone you like very much. How do the results differ? Can you see a cognitive dissonance effect at work here, too? In what way?

of efforts to minimize “cognitive dissonance”—the uncomfortable state in which one’s thoughts seem internally inconsistent. Thus, in competitive conflict, disputants tend to ignore similarities and focus only on differences.

Note how these biases operate when disputants consider deep-seated values and principles. A disputant who perceives a conflict as cooperative is likely to notice, emphasize, and focus on those values that he or she and the other disputant hold in common. Since the disputant notices that the other disputant shares many deep-seated values, he or she is likely to approve of the overall approach and world view of the other. In a competition, the opposite tends to be the case. Because Disputant X sees Disputant Y’s deep-seated values as antithetical, Disputant X tends to demonize Disputant Y. This judgment allows Disputant X to dehumanize Disputant Y, making inhumane, violent, mean-spirited, or retributive treatment of Disputant Y seem more appropriate. Disputant Y, seeing Disputant X behave in this manner, has some basis for concluding that Disputant X is, in fact, morally inferior to him- or herself, setting the stage for a similar judgment and similarly reprehensible action. In short, both disputants now have ample evidence to prove to each the inhumanity and inherent evil of the other. These reciprocal actions tend to escalate the negative judgments and, hence, the conflict.

Task Focus in Cooperation and Competition. Because the disputant who perceives a conflict as cooperative believes that he or she helps him- or herself by helping the other disputant, he or she tends to stay focused on the task at hand. Thus, cooperation tends to be characterized by task focus and efficiency. On the other hand, because of the perception of a competitive conflict as a contest, as well as because of the hostile feelings created by competition, competition tends to be characterized by a focus on beating the other disputant.

How does this focus on winning operate in practice? In a conflict characterized by competition, doing better than the other disputant becomes an independent disputant interest. Thus, the disputant becomes willing to trade off other interests in order to see that the enemy suffers a defeat. Consider, for example, our divorce case between Ellen and Ed (introduced in Chapter 6). If Ed is caught up in a competitive conflict with Ellen, he may assert a claim for sole custody of the children, not because he particularly wants the children to live primarily with him but, rather, because it would defeat Ellen’s expressed desire for
sole custody. In taking this adverse position, Ed compromises important interests in effective parenting and in shared responsibility for custody. (Ed will probably rationalize some substantive reasons to support his sole custody claim in order to preserve his “good parent” self-concept.)

**Productivity, Containment, and Escalation of Cooperative and Competitive Conflict.**

A cooperative conflict tends to be characterized by contained size and maximal productivity. There are several reasons for this feature of cooperative conflict.

First, because the conflict is conceptualized as a joint problem to be solved, the disputants tend to work with focused efficiency to resolve it. The disputants stay with the issue at hand and tend not to get off track. Since they tend to work together and share information openly, communication tends to create a minimum of misunderstanding and little duplication of effort. Since feelings of friendliness are generated, there is little likelihood of associated conflicts being generated and little likelihood of personality conflicts being created. Moreover, because of the tendency for cooperating disputants to focus on similarities and minimize differences, they will tend to make light of, or minimize, collateral or linked conflicts that exist between them or the members of their teams. Thus, overall, the forces at work in a cooperative conflict all tend to contain the conflict and lead to its rapid resolution.

In contrast, a competitive conflict tends to be characterized by impaired productivity, conflict escalation, and spreading. The reasons for this feature mirror those just described for cooperative conflict.

Because the conflict is conceptualized as having only one winner and one loser, disputants are necessarily in the business of impeding each other’s efforts to reach their goals. They attempt to impede one another through false and misleading communication, lack of communication, and direct efforts to thwart one another’s goals. Each of these processes directly impairs productivity. Moreover, because each disputant tries to thwart the other’s goals in the conflict, conflicts over the handling of the main conflict are generated. A conflict (including a dispute) over the handling of another conflict (dispute) is called a meta-conflict (meta-dispute), and competitive conflicts feature an abundance of these. Each meta-conflict complicates the picture, further impeding the resolution of the main conflict and adding to the evidence that each disputant has about what a bad person the other disputant is. Meta-conflicts also add to the disputants’ already escalating tendency to focus on differences and deemphasize similarities between them; thus, collateral and linked conflicts take on increasing importance in the minds of the disputants. The motivation that each disputant has to keep the other from attaining his or her goals is exacerbated by the bad feelings each has about the other. The more competition, the greater the degree of enmity; the more enmity, the more competitive the conflict gets.

Moreover, as the hostile feelings of each disputant increase, people outside of the immediate dispute feel pressure to take sides. To avoid being perceived as unkind, friends and friendly acquaintances of each disputant usually feel compelled to express emotional support. Members of the other team see this support...
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Table 9-1 Features of Cooperation and Competition

<table>
<thead>
<tr>
<th>Features of Cooperation</th>
<th>Features of Competition</th>
</tr>
</thead>
<tbody>
<tr>
<td>The conflict is seen as a joint problem to be solved.</td>
<td>The conflict is seen as a contest, with a winner and a loser.</td>
</tr>
<tr>
<td>It is characterized by open, honest communication of relevant information.</td>
<td>It is characterized by avoidance of communication, miscommunication, and misleading communication.</td>
</tr>
<tr>
<td>Disputants pool efforts to gather information (efficient in time, money).</td>
<td>Disputants duplicate efforts to gather information because they mistrust one another’s efforts (inefficient in time, money).</td>
</tr>
<tr>
<td>Disputants try to help one another.</td>
<td>Disputants try to obstruct one another.</td>
</tr>
<tr>
<td>It generates feelings of friendliness; disputants tend to see one another’s similarities and not see differences.</td>
<td>It generates feelings of enmity, hostility; disputants tend to ignore one another’s similarities and focus on differences.</td>
</tr>
<tr>
<td>The dispute tends to be contained in size and tends not to spread.</td>
<td>Meta-conflicts and beliefs about the hostile intentions of the other disputant cause original conflict to spread and escalate.</td>
</tr>
<tr>
<td>One disputant’s suggestions for resolving dispute are welcomed and respected by other disputant.</td>
<td>One disputant’s suggestions for resolving dispute are mistrusted by the other and are seen as a devious effort to gain the upper hand (reactive devaluation).</td>
</tr>
<tr>
<td>Cooperating with the other gives an ego boost.</td>
<td>Cooperating with the other feels like losing face and is psychologically intolerable.</td>
</tr>
<tr>
<td>Disputants tend to be task-oriented.</td>
<td>“Defeating the enemy” becomes more important than staying on task.</td>
</tr>
<tr>
<td>Total productivity is maximized.</td>
<td>Total productivity is impaired.</td>
</tr>
</tbody>
</table>

Deutsch qualifies his assertion by noting that it is not invariably the case that all competition is destructive and further notes that, in some cases, some amount of competition is needed to induce disputants to adopt cooperative behaviors (Deutsch 1973).

Premise 2: Cooperation Tends to Be Constructive, and Competition Tends to Be Destructive. Deutsch’s second major premise is that cooperation tends to be constructive, whereas competition tends to be destructive. The many benefits of using cooperation, rather than competition, to resolve conflict follow directly from the ten major features of cooperation and competition.

First, cooperation is more efficient than competition. Because disputants are motivated to help one another, there is more effort directed at resolving the conflict. In a competition, in contrast, disputants are motivated to keep one another from reaching their goals, so they spend additional time and resources trying to as an all-out alliance—“if you’re not with me, you’re against me.” Thus, competitive conflict tends to draw others into the escalating conflict. This phenomenon is called “polarization” (Rubin, Pruitt, & Kim 1994, 107-8). Thus, competitive conflict tends to escalate and spread, not only beyond the original boundaries of the conflict itself but also beyond the original disputants. One has only to examine the course of the twentieth century’s major military conflicts to see ample evidence of this phenomenon.

Table 9-1 summarizes the major features of cooperation and competition.
impede and undermine one another. The motivation to do harm is exacerbated by the enmity each disputant comes to feel toward the other. Thus, in a competition, time and resources otherwise available to resolve the conflict are diverted to the purpose of undermining the other disputant.

In competition, there is also greater duplication of effort. Since disputants distrust one another, each gathers information independently, instead of coordinating efforts, and more time and money is spent attacking the findings of the other disputant and his or her experts. These tendencies create additional inefficiencies in the conflict resolution process.

Cooperation is also more efficient because of the nature of the information flow between disputants. Cooperating disputants are motivated to share relevant information openly and honestly, because they believe that their counterparts can better assist them in reaching their goals with more information. Thus, cooperating disputants tend to communicate efficiently and effectively. In contrast, competing disputants try to hide relevant information from one another, so the flow of information needed to resolve the conflict is impeded. It becomes expensive and time-consuming to gather the data needed to resolve the conflict.

A renowned mediator many years ago provided the following example of this relative inefficiency of competition:

A couple came to the mediator's office to settle a divorce. As with many divorcing couples, this one entered mediation in a deeply competitive mindset, and bickered over almost everything. At some point, the dialog turned to the kitchen appliances and cookware. They had recently bought a blender, and each wanted it. The couple engaged in heated argument over the item and couldn't seem to make any progress. Finally, the mediator was able to get a word in edgewise. "You're paying me $75 an hour for mediation services. I have seen the same blender in the store
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for $30, but I’m happy to take your money. After all, I have mouths to feed and a child who will be going to college in a few years.” After some moments of embarrassment, the couple agreed to flip a coin and buy a new blender for the loser. E. J. Koopman, (personal communication 1985.)

In addition to being more efficient, cooperation tends to produce more effective outcomes than competition. Because cooperating disputants see the conflict as a joint problem, rather than as a contest, their efforts tend to be devoted to solving the problem in the best way possible. Because cooperating disputants tend to be open and friendly with one another, they are more likely to share information about underlying goals, interests, values, and needs. With this information in mind, they can target their efforts to fashioning arrangements that meet those considerations effectively. Moreover, because cooperation is more efficient, more resources can be devoted to meeting the needs of both disputants effectively. Thus, cooperating disputants have the luxury of devoting more time and energy to the details that can make or break an effective outcome. In competition, on the other hand, disputants are thrown off track by the lack of reliable information and by the focus on beating the other disputant. Disputants trapped in a competition become more and more focused on simply coming out ahead of the opponent, rather than doing well in an objective sense.

Competition promotes a sort of “binary thinking” (Menkel-Meadow 1996) by promoting a focus on the conflict as a contest: “Either I win and you lose, or you win and I lose.” Thus, disputants tend to characterize the conflict as “either my position wins” or “the other position wins,” without any thoughts of alternative options other than perhaps the possibility of splitting the difference. Because of this binary thinking, competition has a tendency to produce less creative, less optimal, and less appropriately detailed outcomes. As an example of the limits that binary thinking imposes on competing disputants, consider the following tale popular with mediators:

Two customers at a local library are disputing over whether to leave the window open. Dick is too hot, so he opens the window. Rene’s book flaps open whenever the breeze from the open window hits it, so she closes it. After Rene closes the window, Dick becomes angry and opens it again. Rene emphatically closes it again. They try various compromises involving partially opening the window, but these satisfy neither patron. Sensing an impending riot, the librarian enters the room. Asking each customer what the problem is, she promptly walks into an adjacent room and opens the window there—problem solved. (Adapted from Fisher, Ury & Patton 1991, 40)

Cooperation is also less likely than competition to lead to escalation and spreading of the conflict. Cooperation is less likely than competition to lead to additional conflict. Cooperative conflict stays well contained, whereas competitive conflict escalates and spreads, creating additional problems that must be resolved.

One of the most striking examples of the tendency for competition to escalate and spread was seen in a Maryland trial court in the latter half of the
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Psychological ownership is a phenomenon in which a disputant feels that the outcome of a conflict is psychologically "his or her own." A disgruntled spouse filed for divorce, and the proceeding became highly contentious and acrimonious. Each litigant was so competitive that the divorce was marked by many times the usual number of ancillary proceedings, such as petitions for support, modification, enforcement, contempt proceedings, and appeals. Unlike the typical contested divorce case that usually fits into a file less than 1 inch thick, this divorce filled about a foot of file space at the courthouse. The most amazing thing about the case was that, even after the death of the former spouses, the heirs of the litigants carried on the battles, recasting issues that had been pending in the domestic relations system as estates and trusts issues suitable for litigation in the Orphan's Court. The dispute was known by many who worked in the courthouse as an infamous example of litigation that would never die.

Cooperation is also more protective of relationships than competition. The forces that lead to feelings of animosity and hostility in competitions do not operate in a cooperative conflict; on the contrary, cooperative conflict is marked by feelings of friendliness and closeness on the part of the disputants. If the disputants have an ongoing relationship to protect, this aspect of cooperation can be extremely important. Examples of disputants who need to protect ongoing relationships include divorcing parents of minor children, business partners, those attempting to establish or maintain a business relationship (such as repeat buyers and sellers), employers and employees, schools, parents, teachers and students, and landlords and tenants. The positive regard promoted by cooperation can improve relationships on multiple fronts; thus, the advantages go beyond the immediate conflict itself to improving the relationship altogether.

Even disputants whose relationships will be temporary have an interest in sustaining positive mutual regard for the duration of their conflict, in order to take advantage of the other positive and constructive aspects of cooperation. It is easier to sustain a cooperative interaction when the disputants or their teams are not distracted by negative feelings toward those on the other team. Moreover, it is easier to get your interests satisfied by a disputant on the other team whose regard for you is positive.

Finally, outcomes achieved in a cooperative conflict tend to be more durable than outcomes reached in a competitive conflict. There are several reasons for this phenomenon. First, as previously noted, outcomes achieved via cooperation tend to be better suited to each disputant than outcomes achieved via competition. Hence, each disputant has less reason to stop abiding by arrangements reached in a cooperative process.

Second, disputants who reach an agreement using a cooperative process tend to feel that they were responsible for the development of the particulars of the arrangement: they feel that the agreement was the result of the exercise of their own personal power. Conflict resolution specialists call this phenomenon psychological ownership. People who feel psychological ownership of an outcome are more likely

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4 In Maryland courts, the Orphan's Court is responsible for handling matters involving decedents' estates.
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1. Quality of consent

   The extent to which the conflict resolution process and outcome are freely consented to by the disputants. Processes that possess a high quality of consent tend to yield outcomes that are psychologically owned by the disputants. (See a more detailed discussion in Chapter 2.)

   - If the other disputant perceives the conflict as competitive, it may impede her ability to perceive the efforts of the first disputant to help her. This phenomenon is discussed later in the chapter.

2. Psychological ownership

   In a cooperative conflict, both disputants tend to feel psychological ownership of the outcome. In a competitive conflict, an outcome tends to be psychologically owned by, at most, one of the disputants. The other disputant tends to feel that the outcome was imposed by "the enemy" and will take every available opportunity to sabotage, impede, or challenge its terms. Psychological ownership is closely related to another concept called quality of consent, which is the extent to which the process used to resolve conflict, and the conflict, ultimate outcome, were freely consented to by the disputants.

3. Psychological ownership is closely related to another concept called quality of consent, which is the extent to which the process used to resolve conflict, and the conflict, ultimate outcome, were freely consented to by the disputants.

   Finally, because disputants in a cooperative conflict have more positive, friendly feelings toward one another, they are more likely to protect the terms of the arrangement they have reached in order to preserve the relationship. If a particular part of the agreement is less advantageous to one disputant, he or she tends to be more willing to overlook it in the interests of satisfying the other disputant. Even if an aspect of the arrangements they have made turns out not to function as well as expected, cooperating disputants are more likely to be able to negotiate a modification, thus allowing the overall arrangements to survive. Competitive disputants are more likely to gloat over a provision that causes disadvantage to "the enemy" and to be suspicious of any efforts by the other disputant to modify provisions. Overall, disputants in a cooperative conflict tend to be

- More satisfied with outcomes they have attained
- More likely to abide by and preserve the outcome they have attained

Premise 3: Deutsch's Crude Axiom: Cooperation Begets Cooperation and Competition Begets Competition. A disputant's perceptions regarding whether the conflict is cooperative or competitive will produce conduct that tends to reinforce this perception. In other words, cooperation and competition tend to be self-fulfilling prophecies. This premise is referred to as "Deutsch's Crude Axiom."

You'll recall that one recurring theme in conflict diagnosis is that conflict participants, who are unable to read the minds of other participants, tend to use the conflict itself as a source of information about their motivations. Imagine a disputant, Disputant X, who thinks of the conflict he is in as cooperative. This disputant will try to help the other disputant, Disputant Y, since he believes it will also help him. As Disputant X tries to help Disputant Y meet her interests and needs, Disputant Y will typically (unless other factors intervene) notice the helpful behavior. Disputant Y will have evidence, and therefore probably infer, that Disputant X is motivated to help her. Thus, Disputant X's actions generate a belief in Disputant Y that their interdependence is promotive. Disputant Y will typically respond to this inference in the most self-interested fashion: by helping Disputant X.

A converse phenomenon occurs in competitive conflict. If Disputant X thinks of the conflict as competitive, he will tend to engage in obstructive,
misleading behavior, behavior that tends to impede rapid resolution of the conflict and to harm Disputant Y. Disputant Y, seeing this behavior, will probably conclude that, if she helps Disputant X, she will be harmed. Thus, to protect herself, Disputant Y is motivated to try to obstruct Disputant X from his goals. Disputant X has his suspicions confirmed by this behavior by Disputant Y, and so on.

Another way to express this premise is to describe both cooperation and competition as cyclical processes driven by the perceptions of the disputants. Figure 9-1 shows the cooperation cycle, and Figure 9-2 shows the competition cycle. It is worth studying these diagrams closely. Consider how each applies to situations and relationships you have experienced.

It is worth noting that, the more objective information about the conflict is possessed by each disputant, the less the disputant is likely to be swayed by the other’s behavior in the conflict. The phenomenon of disputants using the conflict to make assessments about the conflict itself is exacerbated when participants are poorly informed about the conflict. A very well-prepared participant—one who has studied the situation, knows his or her own interests, and the interests of other participants, has learned as much as he or she can about the other participants, and knows where he or she stands in the conflict—has less need to draw inferences from the course of the conflict. Thus, being very well prepared is a factor insulating a conflict participant from being misled by the forces that influence perception in a conflict. In legal disputing, the gathering of information about the dispute is often called “case preparation.” If you are a legal professional or have studied the legal process, you will be familiar with the steps of preparing a case.

**FIGURE 9-1**
Cooperation Cycle
Step 4. Assess the Character of the Conflict as Constructive or Destructive

- FIGURE 9-2
  Competition Cycle

1. Researching the applicable law
2. Investigating the applicable facts
3. Interviewing and assessing the possible witnesses
4. Gathering and organizing the relevant documentary and other evidentiary materials

These steps, so essential to preparing a lawsuit for litigation, paradoxically have the power to minimize the destructive effect of competitive conflict. Since the person in possession of this information has less need to draw inferences about the conflict from the behavior of the other disputant, he or she is less likely to be drawn in by the perceptual distortions caused by competitive conflict. On the other hand, the more resources that are used to gather information about a legal dispute, the sillier it often seems not to pursue a lawsuit—“I’ve already done all the work to get it ready for trial; why not just go the last little bit and try the darn thing?” Rubin, Pruitt, and Kim (1994, 111–16), refer to this phenomenon as “overcommitment,” an impediment to cooperation that will be discussed in Chapter 11.

Premise 4: It Is Easier to Move from Cooperation to Competition Than Vice Versa. Deutsch’s final premise about cooperation and competition is that cooperation is relatively fragile. His studies indicated to him that it is easier to move from cooperation to competition than vice versa. People never have perfect knowledge about one another, and, in their fear and suspicion, they tend to set in motion protective actions that promote competition. For example, a
disputant may hide the truth from the other disputant because, although he or she thinks the other disputant is being cooperative, the disputant is not 100 percent sure. Moreover, in any conflict, communication is typically imperfect. Betrayal of trust can occur through misunderstanding, the intervention of third parties, missed communication, and so on. A single betrayal of trust can set in motion the perceptual cycle leading to the beginnings of destructive conflict escalation.

On the other hand, once a conflict has become competitive, it is difficult to derail. Because the disputants are mistrustful of one another, they are likely to interpret one another's actions as maliciously motivated. Reactive devaluation and other similar processes prevent the disputants from recognizing or acknowledging one another's truly cooperative efforts; hence, efforts by one disputant to break a competition cycle may be ignored, denigrated, or exploited by a suspicious other disputant. Competition cycles tend to be marked by abortive efforts to break the cycle. Disputants who stick their necks out in an effort to cooperate, only to be rebuffed, are likely to become even more entrenched in competition, because they are likely to conclude that the other disputant is incorrigible.

**Implications of Deutsch's Theory**

Deutsch's theory of constructive and destructive conflict has a number of implications for conflict diagnosticians.

**The Desirability of Seeking a Cooperative Relationship.** Competition is saddled with a number of significant disadvantages, compared with cooperation. Deutsch himself notes that not all competitive conflicts are destructive. He states, first, that a benevolent and powerful disputant may be able to impose a useful solution and, second, that sometimes competition and the pain it causes are essential to motivate future cooperation (Deutsch 1973, 31–32). It might also be noted that not all cooperative conflicts are constructive: cooperative conflict resolution that involves a more powerful party's simply imposing its will, however unwelcome, on a disempowered and compliant other is clearly not what Deutsch had in mind for the paradigm of a cooperative conflict. Nonetheless, Deutsch recognized the inherent destructiveness of the competitive process, concluding that there are pathogenic processes inherent in competitive conflict—such as perceptual distortion, self-deception, unwitting involvement—that tend to magnify and perpetuate conflict. (Deutsch 1973, 47)

In general, a principal task of a conflict diagnostician is to determine whether a conflict is caught in a competitive cycle, and to what extent. If it is caught, the conflict diagnostician often looks at whether there are steps that can be taken to break the cycle without causing harm to the participants. And, if the conflict
Step 4. Assess the Character of the Conflict as Constructive or Destructive

is still cooperative, the conflict diagnostician will want to consider whether there are steps that can be taken to keep it that way.

Steps That Influence the Conflict Cycle. To determine what interventions should be applied to preserve or improve the constructiveness of a conflict, conflict diagnosticists rely on the idea that one can change the actual course of a conflict by changing the disputants' perceptions about the conflict. In other words, referring to the process shown in Figure 9-2, one can step in and break the cycle at any point. In particular, competing disputants can, with understanding, skill, and effort, be nudged into a more cooperative frame of mind if they can be made to change their perceptions about the conflict. Table 9-2 lists some useful approaches.

A very common method of refocusing disputants away from competitive perception is simply for the conflict professional to avoid using language that suggests that the conflict is a competition or battle. For example, an expert ADR professional will often avoid words such as opponent, adversary, plaintiff, and defendant or similar emotionally loaded terms to identify disputants, using instead words such as partner, other disputant, or codisputant, or simply the individual's name. An ADR professional may also engineer activities specifically designed to alter perceptions. For example, a skilled mediator often assigns an easy task to the disputants, one that the disputants are required to complete together to move forward in the mediation. If the disputants are successful, the mediator will immediately call the disputants' attention to the fact that the actions of one disputant had the effect of improving the status of the other disputant. This tactic is designed to focus the disputants on promotively interdependent aspects of their relationship. Another common mediator tactic is to find a way to ally the two disputants against a common enemy—for example, if the disputants are in conflict about dividing an asset, the mediator may recast the issue into a problem of minimizing the tax liability of the allocation (refocusing the disputants against the IRS). In another tactic with the same aim, the mediator may make an outrageous suggestion for resolving the conflict, creating an alliance of the two disputants against the mediator. In either case, the tactic is designed to interrupt that part of the competition cycle at which the disputants are focused on difference and dissimilarity and to replace that perception with one of similarity. Moreover, there is a vast body of social psychological evidence that placing people in a single group allied against another group creates amicable feelings, cooperativeness, and a sense of similarity. Thus, this tactic also improves the feelings of the disputants toward one another and imparts a sense that their goals and values are similar.

Resolve Conflicts Early (but Not Too Early). Another important point to take from Deutsch's work is that it is important to try to resolve conflicts fairly early, while they are still cooperative. Since cooperative relationships become competitive easily, but not vice versa, early intervention helps prevent conflict from entering a competitive cycle. This point has relevance when deciding at what point to begin an ADR process or another intervention, and it is of particular significance in legal disputes.
## TABLE 9-2 Techniques That Can Interrupt the Competitive Conflict Cycle

<table>
<thead>
<tr>
<th>Technique</th>
<th>Step in Competition Cycle Affected</th>
<th>Example</th>
</tr>
</thead>
<tbody>
<tr>
<td>Choose language with care</td>
<td>Perception of contrient interdependence</td>
<td>Instead of calling the disputants &quot;opponents,&quot; call them &quot;Mary&quot; and &quot;Jane.&quot; Instead of referring to the conflict as a &quot;dispute,&quot; refer to it as &quot;the problem we need to solve.&quot; Instead of asking disputants to &quot;state their positions,&quot; ask them to &quot;talk about their goals for the process.&quot;</td>
</tr>
<tr>
<td>Assign joint tasks</td>
<td>Perception of contrient interdependence and perception of inefficiency in conflict resolution</td>
<td>Business partners disputing over the appropriate assignment of the venture’s profits are assigned to interview jointly a CPA to learn some steps they can take to increase overall profitability.</td>
</tr>
<tr>
<td>&quot;Expand the pie&quot;</td>
<td>Perception of contrient interdependence</td>
<td>Spouses disputing over a property settlement are encouraged to characterize a payment as alimony—the wealthier spouse receives a tax deduction bigger than the tax the other spouse will have to pay on the amount received. The overall benefit is allocated between the spouses, so both are better off.</td>
</tr>
<tr>
<td>Establish ground rules for civility in communication</td>
<td>Perception of enmity between disputants</td>
<td>An ADR neutral requires each disputant to refrain from &quot;bad-mouthing&quot; the other and takes the time to guide each disputant in using complimentary, polite discourse.</td>
</tr>
<tr>
<td>Create or focus on a common enemy</td>
<td>Perception of enmity; hostility; perception of contrient interdependence</td>
<td>In a custody dispute, the parents’ advocates reframe the issue into a problem of how the parents can convince a mother-in-law who has created friction in the past of the merits of a proposed parenting plan.</td>
</tr>
<tr>
<td>Point out areas of agreement</td>
<td>Perception of difference in values and principles</td>
<td>The disputant’s advocate makes sure to comment, “So, you agree about that,” each time the disputant mentions something that has already been resolved.</td>
</tr>
<tr>
<td>Focus blame away from the disputant and toward process</td>
<td>Perception that other disputant is at fault for failure to progress in a conflict</td>
<td>In response to a disputant’s complaint about the other disputant’s not complying with a prior agreement, counsel says, “So those arrangements didn’t work for you. Let’s work on making some new, more effective, and workable arrangements.”</td>
</tr>
<tr>
<td>Prepare “the case”</td>
<td>Minimization of the Impact of Deutsch’s Crude Axiom</td>
<td>The disputant is encouraged to get all the information he or she can about the factual and legal aspects of the dispute and to perform an in-depth conflict diagnosis.</td>
</tr>
<tr>
<td>Use trust-building exercises</td>
<td>Lack of trust between disputants</td>
<td>Disputants are encouraged to confirm the accuracy of one another’s statements. The ADR professional gently guides the suspicious disputant into realizing that the other disputant has, in fact, been behaving as the disputant would have, had he or she believed the same thing.</td>
</tr>
<tr>
<td>Set up structure to create sharing of information</td>
<td>Tendency to obfuscate or mislead</td>
<td>The mediator requires the sharing of tax forms to confirm the income information of the disputants. The mediator asks each disputant to back up claims about expenditures with receipts and other documentation.</td>
</tr>
</tbody>
</table>

Litigation is an adversary process—which means that it is competitive. It has a winner and a loser, and the process involves a contest between adversaries. As such, litigation is fraught with all the disadvantages attributable to competitive conflict in general.
Step 4. Assess the Character of the Conflict as Constructive or Destructive

Experts in conflict resolution often use a variety of tactics to influence the disputants into believing the situation is cooperative, thus taking advantage of Deutsch's Crude Axiom. Bob Dammrich, The Image Works

The Ubiquitous Language of Competition in Legal Negotiation

A couple with two children sought help from a mediator to ensure that their impending separation and divorce did not become locked into an escalating and destructive cycle. In the initial mediation session, the clients and mediator discussed the use of the separation agreement that would be developed in mediation. The mediator explained to them that the finished document would render the divorce uncontested and that the usual practice was to attach a copy of the agreement to the initiating pleading, the complaint for divorce.

The eyes of one of the spouses, a professional writer, widened. "If there are no contested issues left, why do they still call it a complaint?" he asked incredulously.

The mediator could give no answer other than to reaffirm the adversarial focus of the legal system, and the client could only shake his head in disbelief. "Isn't that ridiculous? That's why we are in mediation!"

In any legal dispute, litigation is on the horizon, so, even if disputants aren't already in court, their negotiations take place in the knowledge that a competitive process looms on the horizon. One seminal piece of scholarship called this phenomenon “bargaining in the shadow of the law” (M n ookin & Kornhauser 1979). Thus, legal disputants are pushed toward competition even when they are trying to avoid court. ADR reformers have tried to make litigation less inevitable, and ADR processes more mandatory, for just this reason.

On the other hand, litigation provides important fairness protections for litigants: evidentiary and discovery rules, the right to a neutral forum, and the right to place one's case in the best possible light. Legal policymakers are still struggling to balance the need to make legal disputing less competitive with the due process protections the adversarial legal system provides.

If parties to a legal dispute get too far into a litigation process, they tend to get frozen into their competitive orientation. Moreover, the substantial
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investment of time and money into preparing for battle may create overcommitment, a feeling that the disputants have come too far to turn back. But, if disputants start a dispute settlement process too early, the disputants may not be emotionally ready to settle (Pruitt & Olczak 1995, 59–92, refer to this readiness as “ripeness”; see Chapter 11), and they may not yet have the information they need to make a good decision.

EXERCISES, PROJECTS, AND “THOUGHT EXPERIMENTS”

1. Conflict journal.
   a. Assess whether the main conflict is primarily competitive or cooperative. Using the definitions of cooperation and competition advanced in this chapter, justify your answer.
   b. Explain how each of the ten essential characteristics of cooperation and competition are playing out in the main conflict. You should apply the characteristics to your conflict and be specific about how these characteristics manifest themselves in your conflict.
   c. Considering the ideas in this chapter, do you think you could improve the situation by changing the overall orientation of the conflict (for in-
Step 4. Assess the Character of the Conflict as Constructive or Destructive

stance, if the conflict is primarily competitive, would it help to make it more cooperative? Why?

d. Consider Deutsch's Crude Axiom. Looking at each “node” in the cooperation and competition cycles (each box in Figure 9-1 and Figure 9-2), identify a specific act you, or your team, could do that would influence the conflict to become more cooperative by altering that node.

e. How could you influence the conflict to become more “ripe” for cooperation?

2. Is it practical to try to make a legal dispute more cooperative once the dispute has entered litigation? Why or why not?

3. Patty Plaintiff and Donnie Defendant are in settlement negotiations over a fender-bender. Patty has demanded $15,000 for medical expenses and damage to her car. Donnie has been unwilling to offer more than $1,000. After two weeks without any communication, Donnie's attorney, Debbie, has just called and abruptly offered Patty $14,950 to settle the case.

a. If the disputants and their lawyers are in a cooperative relationship, how is Patty most likely to react?

b. Would your answer change if the disputants and their lawyers were in a highly competitive relationship? Why or why not?

4. What are the risks to the client for attorneys to attempt cooperative approaches to resolving conflict? What are the risks to the client for attorneys not to make a diligent effort to cooperate in settling the client's dispute? Where should attorneys draw the line between protecting the client from exploitation and protecting the client from escalating and destructive conflict?

5. Consider the issues presented in exercise 4. Are there ways that the client can get the best of both worlds by having a cooperative but protective attorney engaged in a process that both can be assured will have cooperative features? One solution, suggested by others, is the concept of “collaborative law” (discussed further in text Chapter 3). The organizations HALT (http://www.halt.org/FLIP/CLP.cfm) and the Collaborative Law Institute (http://www.collaborativelaw.org) post information and links where you can get more information about this innovation. Prepare a report discussing the advantages and disadvantages of collaborative law for improving the constructiveness of legal disputes.

6. Consider the Israeli-Palestinian dispute. What signs do you see that the conflict is in a destructive cycle? (You should look at the ten essential characteristics of cooperation and competition and apply each of them to the situation.) Can you think of ways that the United States, or other countries, might be able to influence the course of the conflict by effecting a change to a “node” (one of the boxes in Figure 9-1 and Figure 9-2) of the cooperation or competition cycle?

7. During the months leading up to Operation Desert Storm in 1990-1991, President George H.W. Bush made a number of diplomatic moves, which
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he said were designed to avoid going to war with Iraq. However, he also announced publicly that he would not allow Saddam Hussein to save face. Were President Bush’s comments about saving face consistent with his stated goal of avoiding military confrontation? Why or why not? Use the ideas you have learned in this chapter to justify your assertions.

8. How important is cooperation in a workplace environment? (Look at the ten essential characteristics of cooperation and competition and assess their relevance to the workplace.) Do you think those at the top of a business organization would want to improve cooperation among employees in the workplace? Why? Is there any danger to individual employees in a move to increase workplace cooperation? What steps might be taken to protect the interests of workers while facilitating an environment of cooperation?

RECOMMENDED READINGS


