
Empowering Students to Create and Claim Value through the Thomas–Kilmann Conflict Mode Instrument

Jennifer Gerarda Brown

In a world of problem-solving lawyering, principled negotiation, and integrative bargaining, to describe a negotiation as “distributional” may strike some as heretical. Still, we disserve our students if we ignore distributional bargaining altogether. Unfortunately, many law students who are drawn to negotiation classes bring with them a fundamental discomfort with claiming value. Contrary to the stereotypes that attribute aggression and “sharp practices” to lawyers, many law students struggle to become more assertive.

The Thomas–Kilmann Conflict Mode Instrument (TKI) is one tool that I have found can help raise students’ awareness of, and comfort with, the reflexive responses to conflict that can impede their attempts to claim as well as create value in negotiation. The insights students gain from taking the TKI can be quickly put to use in the next negotiation role play. Although it may help students realize their dominant response to conflict, the TKI highlights that no single approach to negotiation is always best. Thus, the TKI can both encourage the reticent to claim more value in negotiation and suppress the seemingly insatiable appetites for value claiming that drive other students.

When administering the TKI, I encourage students to learn at least four major lessons:

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1. *A negotiator has a choice in resolving the dilemma between value claiming and value creating. We are not just stuck with our reflexes.*
 2. *Still, it is good to know what our reflexive response to conflict is likely to be so that we are more mindful of the choices as we make them.*
 3. *Departing from reflexes requires energy: preparation, planning, mindfulness, and conscious effort.*
 4. *Adaptability is desirable. A well-integrated negotiator might move from one TKI “type” to another as a negotiation progresses.*

In this article, I seek to give a very brief overview of the ways I have used the TKI to convey these lessons, increasing students' comfort with, and management of, value claiming. To this end, the article will describe the TKI, explain how I administer and debrief the students' encounter with it, and point out some potential pitfalls of this process.

Key words: negotiation, pedagogy, distributive bargaining, Thomas-Kilman Conflict Mode Instrument, value claiming.

The Thomas–Kilmann Conflict Mode Instrument (TKI): An Old Friend Put to New Use

In a world dominated by problem-solving lawyering, principled negotiation, and integrative bargaining, to come out as a teacher of “distributional” negotiation may, to some, seem at best misguided and at worst even shameful. Still, we disserve our students if we ignore distributional bargaining altogether. The reasons for this are twofold. First, even as we encourage our students to negotiate in principled and problem-solving ways, a willingness to claim as well as create value is a must for any effective negotiator (Mnookin, Peppet, and Tulumello 2000). The most principled negotiators working cooperatively to forge highly integrative agreements will sometimes reach junctures that can only be solved distributionally; the “pie” (to borrow the old metaphor) can be expanded no further and must simply be sliced. Second, even if our students intend to adopt integrative approaches to the deals and disputes they negotiate, they may face counterparts who are committed to a zero-sum mindset and who will only bargain in a distributional mode. Understanding distributional bargaining is, therefore, important as a defensive strategy.

Unfortunately, many law students who are drawn to negotiation classes bring a fundamental discomfort with distribution; they are happy to create

value, but are slightly embarrassed about claiming it. Contrary to the stereotypes that attribute aggression and “sharp practices” to lawyers, many law students in my classes over the years have exhibited just the opposite characteristics. They have been honest to a fault, too readily divulging information they could or should ethically retain. Or they have adopted a role in negotiation that is unduly cooperative, allowing others to lead them to results that are mediocre or even counterproductive for their hypothetical clients. Many law students struggle to become more assertive, and over the years, I have looked for ways to help these students grow a slightly stronger (if not stiffer) backbone.

I have used the TKI¹ to help raise students’ awareness of, and comfort with, the reflexive responses to conflict that can impede their attempts to claim as well as create value in negotiation. In brief, the TKI is a thirty-question conflict style inventory. Based upon subjects’ responses to the thirty questions, they receive scores for each of five basic approaches to conflict: avoiding, accommodating, compromising, competing, and collaborating. These scores give the students some sense of their most reflexive approach(es) to conflict.

The TKI is particularly useful in a class or training that encourages experimentation with style because it helps students both to describe and to recognize contrasting approaches to negotiation that might be more conducive to value claiming than their own instinctive style. The insights students gain from taking the TKI can be quickly put to use in the next negotiation role play, as they note their assertive or cooperative inclinations and make choices about whether to inhibit or give free rein to those instincts. Although it may help students realize their dominant response to conflict, the TKI teaches that no single approach to negotiation is always best. Thus, the TKI can both encourage the reticent to claim more value in negotiation *and* suppress the seemingly insatiable appetites for value claiming that drive other students.

My teaching goals when administering the TKI are multiple. I want students to take away at least four major lessons:

1. The dilemma between value claiming and value creating implicates deep responses to conflict within each individual negotiator. Our reflexive response to conflict is likely to influence our comfort with value creating and claiming.
2. Still, we are not stuck with our reflexes. We can choose to follow or defy our reflexive responses, and we will choose more wisely if we are mindful of those tendencies.
3. Departing from reflexes requires energy: preparation, mindfulness, and conscious effort.

4. Adaptability is desirable. A well-integrated negotiator might move from one TKI “type” to another as a negotiation progresses.

I seek here to give a brief overview of the ways I have used the TKI to convey these lessons, and to deepen students’ understanding of the relationship between their general approaches to conflict and their comfort with value claiming in negotiation. To this end, the article will describe the TKI, explain how I administer and debrief the students’ encounter with it, and point out some potential pitfalls of this process. Although the TKI is not without potential problems, the pedagogical benefits far outweigh these risks and continue to yield dividends throughout the course.

The TKI

Kenneth W. Thomas and Ralph H. Kilmann developed their Conflict Mode Instrument in the early 1970s, refining a model of management styles proposed by Robert Blake and Jane Mouton in the 1960s (see CPP, Inc. 2009).

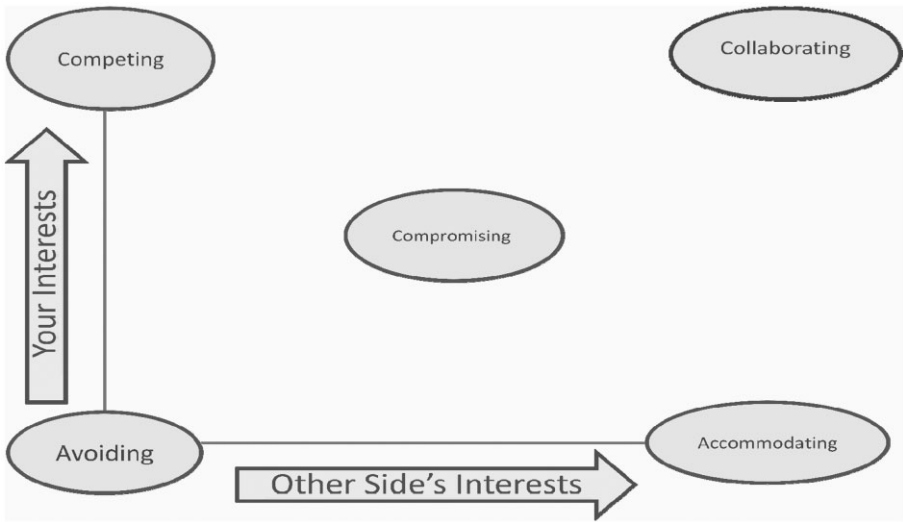
The TKI comprises thirty pairs of statements that might describe the subject’s approach to a generic and unspecified conflict with another person. From each pair of statements, respondents are instructed to choose the one that best describes them. For example, faced with this pair,

- A. I try to find a compromise solution.
- B. I attempt to deal with all of his/her and my concerns.

respondents would choose A or B, even if neither perfectly describes their approach to conflict. The point is that a respondent should experience one of these statements as a more accurate self-description than the other. Thomas and Kilmann drafted each pair of statements to be equal in social desirability. The instrument is, therefore, supposed to be free of biases that might steer respondents away from their true response by suggesting better, “correct” responses.² No approach to conflict is supposed to sound more attractive than any other.

Once respondents complete the thirty-point questionnaire, a scoring instrument allows them to identify a high score for one of five categories: competing, accommodating, collaborating, compromising, or avoiding. These five approaches can be mapped on a graph with two axes: “assertiveness” (a concern for meeting one’s own needs or desires) and “cooperativeness” (a concern for meeting the needs or desires of the other party to the conflict); this graph makes the TKI particularly useful when discussing the tension between value claiming and value creating (see Figure One below).

Figure One
Thomas–Kilmann Conflict Mode Instrument Conflict Style Map



Thus, competing is strongly assertive and uncooperative, accommodating is unassertive and strongly cooperative, collaborating is strongly assertive and strongly cooperative, compromising is mildly assertive and mildly cooperative, and avoiding is neither assertive nor cooperative. When students see how their dominant conflict mode falls on this graph, they can be sensitized to ways they might instinctively resolve the tension between creating value and claiming it.

Using the TKI in a Negotiation Class

Once you have decided you would like to administer the TKI, you must consider the optimal timing in your syllabus. Any scheduling decision will have pros and cons. I used to administer the TKI very early in the course to increase each student's personal stake in the subject of the course and to encourage them to think about their own approach to conflict. An important advantage to teaching the TKI early in a course is that students will have had less exposure to a negotiation literature that generally promotes collaborating. Despite the TKI's unbiased design, students who have already been told to be "problem solvers" (Menkel-Meadow 1984), to go "beyond winning" (Mnookin, Peppet, and Tulumello 2000), or that they should be "getting to yes" (Fisher, Ury, and Patton 2011) (to name just a few) will have started to absorb the desirability of negotiation that focuses on problem solving, manages the value-claiming/-creating tension, and

balances the interests of both parties. When such students encounter the TKI, they may be driven to choose responses that reflect the collaborating to which they aspire, rather than the competing, avoiding, compromising, or accommodating that truly motivates them.

Early application of the TKI creates a shared vocabulary to which students can refer over the course of the semester. When I have administered the TKI early, I have often heard students later say things like, “Bill’s offer at this point was consistent with his accommodating conflict management type,” or “I remembered that Jessica had a high TKI score for competing, so I was on guard as we began our negotiations.”

Despite these benefits to early administration, if you delay slightly, students will have some chances to negotiate and learn negotiation theory without the prime of the TKI influencing their experience. After several weeks of reading negotiation theory and performing negotiation exercises, they will have accumulated a bank of experiences they can synthesize with the lessons of the TKI when it is eventually administered. For example, when a student learns that his or her dominant conflict mode is competing, that information may resonate more powerfully if he or she has already experienced three or four negotiations that were influenced by his or her competing impulses.

The trick is not to put off the TKI for too long in the course because, once administered, it becomes salient for students, continuing to yield instruction as students apply its taxonomy to new situations. As the course moves to new subjects, such as ethics, power imbalance, or agency costs (including problems in the lawyer–client relationship), the TKI reminds students that the issues will not play out the same way for all class members — and that fundamental differences in a negotiator’s conflict management mode may heavily influence these dynamics. Teachers can ask whether, for example, temptations to misrepresent or withhold information might be greater for negotiators with extremely strong “competing” styles. Or teachers might discuss the extent to which a principal’s conflict mode could or should influence the agent’s behavior in negotiation. Reasonable arguments support almost any ordering for the TKI in the syllabus, as long as students have at least a few remaining weeks in the course to synthesize the instrument with additional negotiation experiences.³

When you assign and distribute the TKI, give students some context for choosing the pairs of statements they will encounter. I usually say something like this:

Before you complete the TKI, please think about a relationship you have with another person in which you feel you are authentically your “truest self.” This should be a relationship in which you do not assume an artificial *persona* specific to the relationship. For example, we all understand that response to conflict at

work may be quite different from response to conflict within an intimate family relationship. Think of the relationship in which you are able to behave most reflexively. Complete the TKI with this relationship in mind.

This little speech sets me up well for an aside about how, if they lack such a relationship, they have bigger problems than learning how to negotiate. More seriously, this imagined context of reflexive and authentic response is important because (as I will discuss below in the section about debriefing) context helps create a conceptually common (if not factually uniform) baseline for students' discussion of their results. Later, when students inevitably — and insightfully — note that they would complete the TKI differently if they were imagining conflict with a client or opposing counsel, a teacher can both affirm that insight and remind them that their role-specific response may be a departure from what they identified as authentic, instinctive, or reflexive.

I distribute the TKI at the end of one class and wait until the beginning of the next class to have students score it. I discourage them from scoring their results or interpreting the meaning of the TKI on their own. This puts all students on equal footing as we begin the debriefing. Scoring the TKI is simple. They circle their response for each question, with responses "A" and "B" distributed in various positions on a five-column matrix. Then they total the circled responses in each column to find the column in which they scored highest. This column represents their TKI "type," although I do not label them by types right away.

Once the students have scored their instruments, they are ready to discuss their results. I begin by dividing them into groups based on their high score, without any priming. I simply send "column one high scores" to one corner of the room, column two to another corner, column three to the right center, and so on. If students find that their scores are evenly distributed or that two or more columns tie for the high score, I ask them to approach me and I will assign them to one group or another.

For small group discussion, I give the students three topics:

1. How would you describe your predominant response to conflict?
2. What advantages and disadvantages have you experienced in responding this way?
3. What advice would you give to others in conflict with you to help them handle the conflict most constructively?

This set of questions allows each group to discover its own "type," rather than having it identified for them. Fortunately, students almost always self-describe in ways that are consistent with the TKI type for their score (Korobkin 2009). Hearing others in their group express reactions to conflict

similar to their own, and then finding their descriptions in line with the TKI prediction during the larger group discussion helps reinforce the validity of the instrument. Ten to fifteen minutes is usually ample for the small group portion of the debriefing.

For discussion in the larger group, I have students remain seated with their subgroups but bring their attention back to center. I call upon the small groups, one by one, to share with the larger group their answers to the three questions. I write on the board some of the key phrases or concepts that emerge from each group's self-analysis. As each group completes its summary, students in other groups are free to pose questions or comments.

When Russell Korobkin uses the TKI in negotiation courses, he instructs students to "ignore their scores in columns 2 and 3" (collaborating and compromising, respectively), and instead base group membership on their high score in column 1 (competing), 4 (avoiding), or 5 (accommodating) (Korobkin 2009). This approach makes sense in a very small class because it pushes people toward (and creates critical mass in) the three most distinct groups.

If the number of students permits, however, I prefer to form groups for all five types for at least two reasons. First, when collaborating or compromising types mix into the other three groups, they sometimes muddy the results for those groups in ways that can be confusing to other members who have stronger impulses for that type (e.g., a collaborating type pushed into a group of competing types because that is his or her second highest score may confusingly describe his or her approach to conflict as including substantial concern for the interests of the other person in conflict, and other members of the competing group may have difficulty assimilating this response). Second, allowing students who score high for collaborating or compromising to talk with others like them about their responses to conflict, and then share those thoughts with students from other types, not only helps elucidate these two types, but it may also demonstrate the difference between collaborating and compromising more powerfully than the professor can by filling them in later, as Korobkin suggests (Korobkin 2009).

After all five groups have spoken, the verbal description of the types on the board leads smoothly to the more graphic representation presented on the X/Y axis in Figure One. As helpful as this graph may be, I want to suggest at least two cautionary points. First, I prefer to present each type as a gerund (e.g., "avoiding") rather than a noun (e.g., avoiders) to emphasize that individuals need not be essentialized or stuck as one type or another: these categories describe how people will tend to behave in certain situations, not who they *are*. The TKI describes a subject's dominant or reflexive approach to conflict, but individuals can and do move in and out of these approaches with some regularity.

Second, I worry that the X/Y axis is too prescriptive and may lead students to reduce the types to caricatures: competitors are selfish, accommodators are pushovers, avoiders are bad negotiators, and so on. The three-part verbal analysis suggested by the debriefing questions above is important to present *before* students see the X/Y graph in order to make clear that each TKI type has strengths *and* weaknesses, advantages *and* disadvantages. The problem with the X/Y graph is that it purports to quantify value and does so in a static way. For example, “collaborating” moves negotiators outward along the Pareto frontier, finding ways to increase their own value at no cost to their counterparts. “Avoiding” places negotiators in the “0” position on the graph, increasing neither their own nor their counterparts’ value — at least with respect to the specific conflict they seek to avoid. From the X/Y graph, students might conclude that it is always better to collaborate than to avoid,⁴ but the debriefing analysis and discussion may suggest that this is not true. In this example, avoiding may be appropriate when negotiators want to “pick their battles” — students scoring high in avoiding may have noted some advantage in “conserving their resources.” Correspondingly, students scoring high for collaborating may have conceded in their analysis that they sometimes make a big deal of matters that do not merit the time and energy they devote to them. This kind of discussion can provide a good antidote to an oversimplification of the X/Y array of TKI types.

I also draw students’ attention to the categories in which they have their lowest scores. For example, students who score high in column 1, competing, will often feel that they are skilled negotiators because they focus on “winning” and can point to good results. But a low score for these students in column 4, avoiding, might lead them to ask whether they sometimes find themselves unintentionally hurting people’s feelings or triggering hostile interactions. A low score for such students in column 5, accommodating, might lead them to ask whether they have difficulty building positive relationships with others or whether others view them as unreasonable.

In addition to discussing the “types” with some nuance, facilitators should also exercise caution when leading the “advice” portion of each group’s discussion. I have observed over the years that the advice each group gives to other groups is colored by the tendencies of their own type. Students scoring high for “competing,” for example, often advise other students about ways to “defend against our exploitation” or “get value from us,” while students scoring high for collaborating plead with their classmates to place greater trust in their assertions that they sincerely care about the other side’s result as well as their own. This portion of the discussion can deliver such reassurances, or signal a kind of warning to other members of the class. For example, one year the following exchange occurred between two students who both scored high in competing:

Student A: *Look, we like to win. You should come to the negotiation with a few concessions you are willing to make that will cost you little, so you can satisfy our hunger for a “win” early on. Then we’ll relax and be ready to give you something in return.*

Student B: *No! That’s terrible advice! Giving us those early concessions is like dumping blood in a shark tank . . . it will send us into a feeding frenzy. We won’t reciprocate — we’ll just demand more.*

This exchange, while somewhat humorous and possibly exaggerated by the participants for comedic effect, does suggest that other students should take each group’s “advice” with a grain of salt. The advice may say more about each group’s sense of itself than it does about the most effective way to negotiate with them.

Still, moments of enlightenment emerge. Students scoring high in “avoiding” have advised that they will participate in the negotiation more readily if the underlying conflict is deemphasized. Fellow students who may have found such students difficult to engage have a kind of “a-ha moment” when they see that their own framing of the conflict — placing it in the foreground or relegating to background — can powerfully affect the cooperation and participation of the other side.

Most importantly for our purposes here — after all, we are talking about teaching distributive bargaining — is that debriefing the TKI can help accommodating students see that the pushiness they have experienced from more competitive students is not personal. Indeed, when competing types describe negotiation as a sort of “game” (as they often do), accommodating types may have “a-ha” moments of their own; simply hearing assertive students describe their dominant approaches to conflict helps explain the unspoken “rules of the game” to more accommodating students. The key lesson for such students may be that other negotiators will not experience assertion as a threat to the relationship. Instead, other negotiators may *expect* some jockeying back and forth as a sign of strength and mutual respect. Hearing that other students believe that they can simultaneously claim value *and* preserve relationships can embolden the more reticent class members.

Following the in-class debriefing, the remaining task for processing the TKI is some reflective writing. When I have administered the TKI early in the course, this reflective writing has helped students increase their comfort with the vocabulary of negotiation theory and gain some facility with thinking of themselves and others in terms of the TKI conflict management types. This vocabulary can become a valuable interpretive tool over the course of the semester or training. Teachers who administer the TKI early in the semester can ask students to discuss an experience or relationship outside of class in terms of the five TKI conflict management types using this or a similar prompt:

Write about a time when you were in conflict and your behavior was consistent with your score on the TKI. What did you say or do that demonstrated your TKI conflict management type? Did these behaviors promote or impede your interests in the conflict? Think about your counterpart in this conflict. How might you characterize his or her TKI conflict management type, based upon the behavior you were able to observe? How did the two TKI conflict management types interact in this situation, and how did that interaction affect the outcome?

When I have administered the TKI near the midpoint of the semester, the students have a rich set of experiences in the course to which they can relate their TKI results. Under these circumstances, I have assigned this writing exercise:

Discuss an experience from this course in which your behavior reflected your dominant approach to conflict as diagnosed by the TKI. Did your behavior work to your advantage or disadvantage? If your behavior was helpful, what made it so? Can or should you cultivate this behavior in other contexts as well? If your behavior did not work to your advantage, what might you have done differently to manage or respond to your dominant approach to conflict?

When students run a concrete negotiating experience through this analysis in ways that connect it to the TKI, they are better able to see TKI types at work in their own and other students' behavior throughout the remaining weeks of the course. When I read and comment on these essays, I encourage students to experiment with new approaches to conflict, sometimes suggesting specific role plays still to come in the course that might provide interesting opportunities for such experimentation.

Conclusion

Ironically, the TKI has shown me that one of the best ways to enhance some students' comfort with value claiming is actually to *increase*, rather than decrease, their empathy. That empathy — the ability to view a situation through the eyes of another, and understand how it looks to someone else — can serve the reticent in two important ways. First, overly cooperative, accommodating students need to understand that the very prospect of conflict strikes different people in different ways, triggering reflexive responses to avoid, compete, compromise, or collaborate, and that these responses offer alternatives to their own more instinctive inclination to accommodate the other side.

Second, they need to understand that others may value their accommodation less than they do; once they see that other negotiators are less driven than they are to sacrifice interests in order to preserve relationships,

they may start to see their own sacrifices as ineffective gifts.⁵ Accommodating types may be foregoing value claiming but in ways that fail to resonate for negotiating counterparts who respond to conflict in different ways. The relationships accommodators work so hard to preserve may not require their sacrifices — because their counterpart either does not value the relationship in the same way or does not see the conflict as jeopardizing the relationship. When they hear competing types talk about negotiation as a game, or collaborating types emphasizing *shared* value maximization, students who are hesitant to claim value may start to understand how fully their agenda diverges from that of their counterparts. In this new, more empathetic understanding of how negotiation looks from other people's perspectives, students may gain a greater sense of empowerment to step into the value-claiming game.

NOTES

1. Although one can easily obtain a copy of the TKI, it should be noted that the instrument is protected by copyright. Russell Korobkin (2009) helpfully provides a license to administer the TKI to any professor who adopts his text, *Negotiation: Theory and Strategy*, and I am indebted to him for the guidance he provides in his teacher's manual for debriefing the exercise. Many of the ideas and practices summarized in this article have accumulated over years of exposure to the TKI, from responding to the instrument myself during mediation training to teaching the instrument along with Korobkin's text. For teachers or trainers who wish to administer the TKI independently, permission may be obtained from Consulting Psychologists Press, Inc. at (800) 624-1765 or at <http://www.cpp-db.com>.

2. Whether the unbiased character of the TKI can survive a negotiation class emphasizing principled or problem-solving negotiation is debatable. The potentially biasing effect of the course context may have implications for the timing of this exercise, discussed later.

3. Korobkin (2009) places the TKI in Chapter 8. For most law schools, this would position the TKI just beyond the half-way point in a fourteen-week semester, assuming the course covers one chapter per week.

4. Korobkin may be read as supporting this view when he says, "With the Mnookin/TKI typology, I think there is an answer to the normative question as to which style is best, at least in general. Mnookin et al. argue that both assertiveness and empathy are useful traits for the negotiator. The 'collaborating' style reflects healthy amounts of both assertiveness and empathy, and thus seems desirable" (Korobkin 2009: 132; see also Mnookin, Peppet, and Tulumello 1996)

5. O. Henry's short story, "The Gift of the Magi," wonderfully illustrates the apparently wasteful consequences of making sacrifices when a recipient is unable to enjoy the fruit of that sacrifice (indeed, I have heard this story invoked to demonstrate the dangers of wasteful accommodation). But Henry draws a moral from the story quite different from mine in this article. Henry concludes:

And here I have lamely related to you the uneventful chronicle of two foolish children in a flat who most unwisely sacrificed for each other the greatest treasures of their house. But in a last word to the wise of these days let it be said that of all who give gifts these two were the wisest. Of all who give and receive gifts, such as they are wisest. Everywhere they are wisest. They are the magi (Henry 1992).

Henry may correctly assert that they are "wisest" who are willing to make reciprocal sacrifice in a family relationship — even when it seems to "unwisely" sacrifice the greatest "treasures" of a house. But negotiating a deal or settlement calls for a different sort of prudence, and understanding the other person's ability to appreciate one's sacrifice would seem to be a crucial element of that wisdom.

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