





By John M. Livingood

Reframing and Its Uses

A close look at “reframing” —  one
of the most powerful tools in a conflict
resolution  practitioner’s tool kit.
The author explains  the concept
and explores the many opportunities
for  its effective use.

In its broadest sense, “reframing”—a term of art in dispute resolution circles—is a realignment of “a frame of reference.”¹ In negotiations and conflict resolution, it is a powerful tool that has many uses. In this article, the discussion of reframing is limited to the technique of restating or rephrasing statements and concepts in order to advance the goal of reaching an agreement and resolving conflicts and disputes. (This is not meant to discount the value of other forms of reframing, including the reframing of actions or behaviors.) Reframing can be used negatively to frustrate and impede settlements and the resolution of conflicts, but that will not be considered here.

All the participants in a mediation may engage in reframing. An advocate may reframe statements to further negotiations or channel them in a particular direction for the purpose of achieving the client’s goals. A conflict resolution practitioner may, for example, reframe a statement by a party to the mediation in order to elicit agreement on some issues, or to bring out the underlying interests of the parties. The practitioner also may encourage the parties to reframe their own statements.

Generally, when a mediator reframes a statement, or encourages a party to do so, the technique is being used intentionally for a specific purpose. However, reframing also may occur inadvertently, for example during the course of back-and-forth bargaining or during a conversation with the mediator in a private caucus. Mediators are susceptible to inadvertent reframing when they attempt to paraphrase a statement with the sole intent of demonstrating active listening.

In the context of negotiations, William Ury has defined reframing as “redirecting the other side’s attention away from positions and toward the task of identifying interests, inventing creative options, and discussing fair standards for the selection of options.”² This definition, founded on interest-

based bargaining principles, parallels interest-based approaches in mediation and conflict resolution generally. But reframing for this purpose is not an essential mediation or conflict resolution technique.

In addition to the uses of reframing suggested by his definition, Ury suggests using reframing tactics to address stone-walling, verbal attacks, and tricks in bargaining.³ For example, he proposes reframing a personal attack into a question directed toward remedying the problem. Here is an example:

Original Statement: Don’t you know any better than to submit a proposal that will never fly?

Reframed Statement: You may have a point there. How would you improve the proposal to make it fly?⁴

Reaction to Reframing

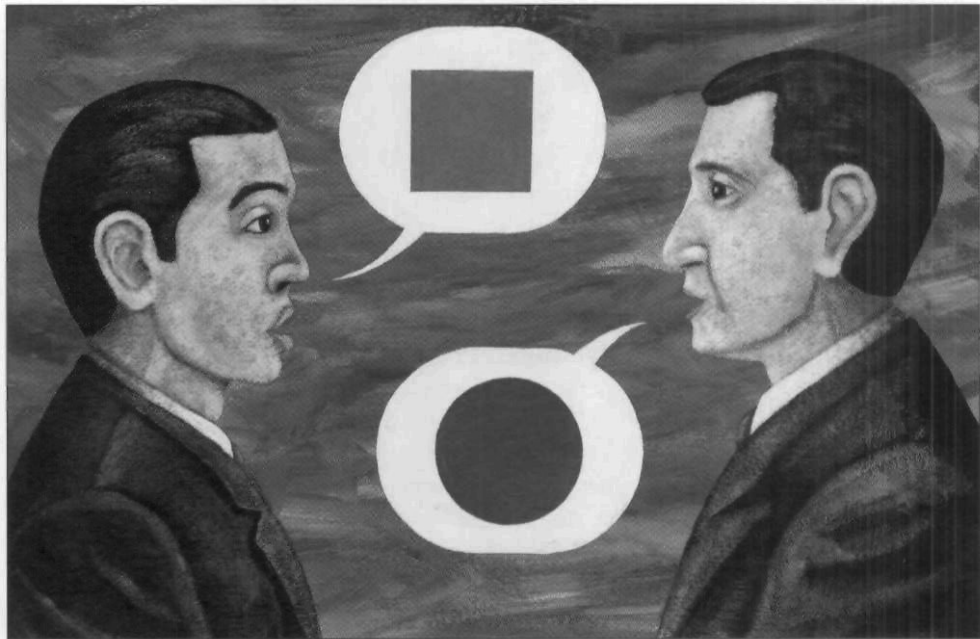
Certain sectors of the conflict resolution community have approached reframing very cautiously. While many dispute-resolution professionals stress the importance of including the interests and needs of the parties in reframed statements, others

voice concern that mediators may intentionally or unintentionally impose their perspectives or attitudes on the parties. Notwithstanding these

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concerns and consistent with the theme of encouraging the free flow of thought, conflict resolution practitioners generally have embraced reframing and some have refined and developed additional reframing techniques. One such technique, called "metaphoric reframing,"⁵ attempts to find a new or altered metaphor to describe a situation or concept. It is an extremely difficult technique to master and it requires a great deal of sensitivity to the underlying meaning that the metaphor has for the parties.⁶ Extreme caution should be exercised in using this very subtle technique.



There are at least six reasons to use verbal reframing. However, they are not mutually exclusive. In any situation there may be more than one reason to use reframing to achieve one or more particular effects. Reframing can be used to:

- achieve understanding and/or clarify a statement;
- help the author of the statement and/or the other participants achieve a different perspective;
- neutralize language;
- construct a joint or common goal, statement of the problem or issue in dispute;
- create a new relationship paradigm; and
- move the resolution process into a more focused phase.

The use of reframing for each of these purposes is discussed further below.

Understanding/Clarification

In negotiations and in conflict resolution processes, reframing is often used to help the parties and the dispute resolution professional gain a better understanding of the issues and the parties' positions, wants, interests and needs. The technique may conjure up the proverbial "peeling back the layers of the onion."

Reframing is particularly helpful in narrowing the issues in dispute and determining the true essence of the matter under review. For example, a mediator can reframe a statement made by a party that would clarify whether a particular issue is or is not in dispute. Or the mediator could ask the author of the original statement a question that would call for her to reframe it. Here is an

example of question-induced reframing:

Original Statement: Our members are highly skilled and deserve to be paid for their skills.

Request to Reframe: Are you saying that all your members are highly skilled and all deserve higher pay?

Reframed Statement: Our mechanics and technicians are the ones I am talking about; they deserve higher rates.

Ury suggests asking problem-solving questions to focus attention on the interests of each side, the options for satisfying those interests, and the standards of fairness for resolving differences.⁷ In Ury's view, "Why?," "Why not?," "What if?," and "What makes that fair?" are among the most useful questions. Additionally, he suggests asking the parties for their advice. For example, "Why do you want that? Help me understand the problem you are trying to solve."⁸

When the reframing technique is directed at discovering the parties' underlying interests, Christopher Moore, a renowned mediator and author, characterizes it as "testing."⁹ In other words, the mediator listens to a party's statement and then states what he heard, and the interests the party was expressing. Gradually, through trial and error, the mediator helps identify the party's underlying needs and interests. In the following example, the mediator uses this questioning technique.

Original Statement: You must honor seniority when you award positions to employees.

Request to Reframe: Are you saying that I have to give a position to someone who is not qualified if he or she is senior?

Reframed Statement: Assuming the applicants are qualified, you must award the position to the most senior.

Through question-induced reframing, the parties may develop a new or varied perspective, which may give them greater insight into the issues. It can give rise to a new paradigm in thinking and to new opportunities for constructive engagement and resolution.

Creating New or Altered Perspective

Moore notes that disputing parties each have their own individual and subjective understanding of the issues in dispute and the basis of their conflict. Their perceptions are “images of reality,” which are, in fact, simply interpretations of reality. A classic example of this phenomenon is the

Reframed Statement: Your sick leave policy requires a doctor’s note on one-day illnesses. It’s too costly to go to a doctor for a one day illness.

Dwight Golann, in *Mediating Legal Disputes*, describes how a mediator attempts to change the parties’ perspective about a dispute and each other.¹² The mediator does this by giving each side information about the other’s perspectives and arguments, questioning each side’s views, and offering alternative perspectives on the situation.

Reframing to change a party’s perspective may be influenced by philosophical approaches to conflict resolution. If the dispute resolution professional believes that disputes should be resolved based on the parties’ real interests, then reframing will be used to orient the parties away from posi-

While the parties will inevitably have their own perspectives of the issue and possible solutions, reframing can contribute to the resolution process by focusing their efforts on the resolution of a common problem.

“glass is half empty; the glass is half full” view of the world.

While the number of potential interpretations is large, Moore observes that an individual’s mindset generally allows only one “possible, reasonable, permitted view,” which suggests only “one possible, reasonable permitted solution.”¹⁰ As a result, a party to a dispute will need help in seeing any other point of view or other possible solutions.

Using reframing, a conflict resolution professional can elicit statements from the parties without the rhetoric and imagery associated with party positions, and thereby assist the parties in hearing and understanding other points of view, perhaps for the first time. The author of the original statement may even begin to look at the problem in a different light.

Reframing that focuses on the language that the parties themselves use forces the parties to really hear their own statements as the mediator or the adversary heard them. As a result, the parties may choose different words, words that are less inflammatory, or more directly related to the issues and to their underlying interests, to explain themselves.¹¹ Here is an example:



Original Statement: Your sick leave policy is unfair.

tional statements toward expressing their needs or interests.¹³ One commentator has noted that since reframing provides the mechanism to expand the issues, it can provide the parties with more bargaining power, since broader interests allow a greater spectrum of solutions.¹⁴

Reframing is problematic, however, when attempted in a dispute involving value-related issues, such as guilt or innocence, what norms should prevail in a social relationship, what facts should be considered valid, what beliefs are correct, and what principles should guide decision makers.¹⁵ While partisanship and bias inevitably will pervade value-laden disputes, Moore suggests that reframing can still play a role. One is to transform a value dispute into an interest dispute. A second is to identify “superordinate” goals. This refers to goals with which all of the parties can identify and be joined in a cooperative effort.¹⁶ Using superordinate goals is similar to finding “joint or common goals,” discussed below.

Neutralization of Language

Perhaps the most familiar and frequent use of reframing is to reconstruct a statement to neutralize language by eliminating rhetoric, inflammatory language, partisanship and bias. The parties to a dispute tend to use language that is judgmental, positional, and biased toward their subjective view. A statement in need of reframing may be

obvious or subtle in its bias; it also may be personally insulting; or it could be impersonal yet value-laden. A conflict resolution professional who uses reframing will tend to translate the offending statement into "neutral terms to remove bias, positions and judgment."¹⁷ Generally, by using neutral language, the mediator will be able to influence the parties to address the issues in a more neutral and positive manner.¹⁸

Bernard Mayer calls reframing with this purpose in mind "detoxification." He notes that the unproductive language is removed while the "essential interests" of what is expressed is retained.¹⁹ Mayer asserts that the "hardest part of this type of reframing is making sure that neither the underlying concerns nor the intensity with which they are felt get minimized or discounted in the reframing process." He says that "the most common tactic is to replace value-laden language and positional demands with interest-based formulations."²⁰ Here are two examples of detoxification reframing in different contexts.

Example 1.

Original Statement: The company must pay for violating seniority rules.

Reframed Statement 1: If seniority was violated, there should be an appropriate remedy.

Reframed Statement 2: If seniority was violated, what is the remedy, if any?

Example 2.

Original Statement: Mr. X has lied to us and is untrustworthy.

Reframed Statement: Mr. X has given me information previously that has not been correct, and I am hesitant to rely on his current statements.

The original statement in Example 2 above is an extremely judgmental statement about Mr. X. The reframed statement eliminates the "liar" charge and replaces it with the author's perception of the facts (Mr. X has previously given incorrect information). The reframed statement also offers the author's feeling about Mr. X ("I am hesitant to rely on him"), removing the toxic "untrustworthiness" label in the original statement.

Mayer gives the following example in the context of a marital dispute.²¹

Wife's Statement: He could care less about our children. All he is worried about is how

When parties to a dispute use language that is judgmental, positional, and biased toward their subjective view, the mediator can translate that language into "neutral terms."

much of his precious money is going to have to pay support.

Mediator's Reframed Statement: You don't think that he is really motivated by your child's welfare, but you are clear that he wants to minimize how much money he has to pay.

Mayer also gives this example in the employment context.²²

Employee's Statement: Hell will freeze over before I agree to work with that jerk again. It was torture last time we were on the same team, and I won't subject myself to his arrogance and sadism again.

Mediator's Reframed Statement: You had a very bad experience working together, and you do not want to repeat it. In particular you felt exposed to certain behaviors and attitudes that you do not feel you should have to deal with in the workplace (or elsewhere).

In the following example, a party is "apologizing" for a previously made statement.

Original Apology: I am sorry that your perception of what I said caused you any sense of harm or embarrassment.

Reframed Apology: I am sorry that anything I said caused you any sense of harm or embarrassment.

The original apology may not seem to be "toxic" on its face, but place it in the context of a sexual harassment case with the male supervisor making the initial statement to the female employee. The words "your perception" become a virtual Molotov cocktail; they not only defeat the attempt at an apology, they add fuel to the fire.

As the above examples show, reframing is very effective in neutralizing inflammatory language in statements that have been made. It can also be used in a preemptive fashion, to set forth the parameters of the dialogue between the parties, thereby avoiding judgment, bias or positional statements. For example, prior to formally embarking on their tasks, mediators usually will set ground rules that may include a warning

against using negative comments and personal attacks. Some mediators may instruct the parties prior to the actual mediation sessions in how to identify their interests, as distinguished from their positions. The goal is to encourage the parties to consciously reframe their thoughts prior to articulating them.

Identifying the Joint or Common Problem

As Moore has noted, each of the parties inevitably will have his or her own perspective on the issues and the possible solutions to a dispute. Verbal reframing can contribute to the resolution of a dispute by focusing the parties' efforts on the common problem and on identifying common goals. Moore also suggested this when he recommended using reframing to identify "larger superordinate goals" in value-related disputes, and when he discussed framing

Problem-solving questions can focus attention on interests, potential options for settlement, and fairness standards.

joint statements of the problem that incorporate the parties' individual and joint interests.

Reframing in order to construct a statement of the common issues in dispute requires the interests of all the disputing parties to be included in the comprehensive statement. Once the parties agree on the statement, they can commit to working together on the common problem because they believe their needs will be respected, if not met, by the solutions that will be developed.²³

Mayer employs the term "definitional reframing" to describe the process of redefining the issues or conflict so that a more integrative resolution can be found. This involves "conceptual reframing," which often takes the form of presenting an issue as a mutual problem to be mutually solved. This approach is similar to Moore's in that it incorporates the essential needs and concerns of all parties in the restatement of the common problem. Here is an example of definitional reframing in the context of a labor negotiation.

Original Statement: We need a wage increase for our members to get this agreement ratified.

Reply: We can not pay the wage increases you are looking for.

Reframed Statement: How do we structure an

agreement that the company can afford that brings sufficient value so the employees will ratify the agreement?

Morton Deutsch and Peter Coleman believe that reframing the conflict as a mutual problem to be cooperatively resolved by the parties is at the heart of a constructive dispute resolution process.²⁴ Also, they assert that conflict resolvers who are able to do this make it possible for the disputing parties to think creatively about the problem and the solution.²⁵ The following is an example of a reframed statement of the problems involved in a marital dispute.

Original Statement: We have to decide who has custody, where the children will live, and how much time they will spend visiting the other parent.

Reframed Statement: We have to decide how we are going to share our responsibilities as parents and what kind of time the children will spend in each of our homes.²⁶

The potential use of reframing is unlimited. Here is an example of how it is done in a community dispute.

Original Statement: Are we going to protect the unique quality of our community, or are we going to give in to the city's demands that we conform to the regulations that will in the end turn us into just one more yuppie neighborhood?

Reframed Statement: How can we preserve the uniqueness of our community within the city's regulatory framework?²⁷

Creating a New Relationship Paradigm

In Moore's view, when the focus of a dispute resolution process is on the "psychological condition of the disputants," the process becomes identified with the transformative style of mediation.²⁸ Robert Baruch Bush and Joseph Folger popularized transformative mediation in *The Promise of Mediation*.²⁹ The transformative approach to mediation had been employed in a wide variety of situations, ranging from community conflicts to international peacekeeping. Reframing plays an integral role in the transformative approach to mediation.

In the Baruch Bush-Folger model, the objectives of empowerment and "recognition" are not only central to the transformative approach, they are the most important objectives.³⁰ Recognition occurs when an individual acknowledges and empathizes with the situation and problems of others.³¹

Although Baruch Bush and Folger avoid using the term “reframing” and its variants, they invoke the concept when they say that mediators give a party to the mediation the opportunity to “translate” or “reinterpret” statements or behaviors of the other party into a more positive light. As they see it, acceptance of the reinterpreted statement or behavior is “one form of giving recognition.”³²

These authors also advert to reframing without saying so when they discuss the mediator’s use of “nonimpositional summaries.” These are summaries by the mediator of party statements that do not impose the mediator’s own perspectives or views. In this transformative mediation model, the mediator looks for statements that can be used to evoke recognition in a party, for example, the attempted apology in the sexual harassment example mentioned above. Then the mediator “translates” the statement to the other party in terms that he or she can relate to, so that this person can respond and give recognition.

Jay Rothman, building on the works of others, developed the process of “reflexivity,” which he uses to address conflicts rooted in the articulated frustrations and threats to the peoples’ collective need for dignity, recognition, safety, control, purpose, and efficacy: what he calls “identity-based conflicts.”³³ In Rothman’s reflexive reframing, the parties articulate their needs and values that are being threatened or frustrated by the conflict and relations with adversaries. Through a dialogue with their adversary, they engage in open introspection and, it is hoped, thereby discover common ground—or what Rothman calls “resonance.”³⁴

Moving to a More Focused Phase

In both need-based and interest-based negotiations and conflict resolution, reframing assists in moving the parties away from positional bargaining to acknowledging their underlying needs and interests. Reframing is an integral part of a methodic approach to advancing the goals of the negotiation or dispute resolution process.

Mayer articulates a refinement on this theme which he calls “successive reframing.” When complex conflicts or issues cannot easily be effectively reframed, the dispute resolution professional makes successive use of reframing. Successive reframing takes the parties through an “iterative refinement” of the statement of the problem, during which they gradually define and redefine the issues to be resolved until the statement resembles or suggests an acceptable solution.³⁵ The dispute resolution process begins with framing issues, then discovering interests, forming options, assessing options and then reframing

the remaining options and issues. Although in this structure, the focus of the reframing effort is on the remaining options and issues, reframing may be used during any phase of the process.



Rothman approaches identity-based conflicts using his “ARIA” framework. This stands for “Antagonism through Adversarial Framing-Resonance through Reflexive Reframing-Invention through Inventing/Brainstorming Action through Agenda Setting.” In the first stage, adversarial framing could be used to address what resources are at stake and what solutions are being sought. After this phase, reflexive reframing could focus on the “who” and “why” of the conflict—that is, the core identity needs of all parties. It is this step of the ARIA framework that can lead to Roth-

Various types of reframing have been developed to achieve different ends in the discussions with parties who are mediating.

man’s notion of resonance (or common ground), which in turn can foster harmony.³⁶ Rothman believes that in reflexive dialogue, the disputants reframe their perceptions and analyses of each other and their own identities. Thus, where blame is, mutual responsibility enters.³⁷ Reflexive reframing and its product, resonance, is the linchpin of Rothman’s ARIA framework.

In these instances, dispute resolvers use reframing not only for a specific reason, such as to introduce a new perspective, clarify issues, or neutralize language; they use it as an integrated component and phase of the conflict resolution process itself.

Conclusion

At the heart of reframing verbal communication is the endeavor to get to the essential elements of the dispute and remove distractions, so that these elements may be understood and productively addressed. It is a versatile tool in negotiations and conflict resolution, with many applications. A greater appreciation of how the technique is used and its multiple applications could improve the results in the negotiation and conflict resolution setting. ■

(Endnotes are on page 59)

tion. They are seriously concentrating on the dispute, often for the first time.

What is the result? With litigation, they are prepared, not always consciously, to resolve the dispute as much as they are prepared to try the case. In mediation, once the process begins, they want to participate to prove how good their case is, and they don't want to go through this a second time. They want to go back to business.

It is usually difficult to get everyone's attention on a dispute until some external event or authority requires it. The best argument for mediation, and for contractual provisions requiring mediation, is that it forces the event that will bring the parties and counsel together under circumstances favorable for settlement. A contractual requirement for mediation creates the necessary external pressure. It works.

Conclusion

Despite its successes, commercial mediation has not yet matured. Some corporate executives have taken the lead in encouraging the use of mediation, and trial lawyers in increasing numbers have often become experienced in mediation techniques. Governmental agencies have also signed on, since they have difficulty with

binding ADR processes. This is forcing some members of the private sector to accept mediation in order to maintain their contracts with the government. Courts are also pushing almost all litigation into pre-trial mediation. All of this is energizing private mediation, which places control of the process, from start to finish, in the parties' hands.

Nothing is standing in the way of the movement toward mediation. But that movement will accelerate only when more transactional lawyers are educated about the process so that they can advise their clients at the inception of a transaction about ADR options, particularly mediation. This will lead to more mediation clauses and greater use of the mediation process. ■

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ENDNOTES

¹ See Douglas H. Yarn, ed., *Dictionary of Conflict Resolution* (Jossey-Bass, 1999), p. 190. Yarn defines the term "reframing" in several ways. One of his definitions is "the technique of defining or redefining a particular concept or reality so as to give it a slightly different and more constructive perspective." He also defines reframing as a technique a mediator uses "to recast conflictual issues in neutral terms." Yarn points out that there are other terms for the technique, one of which is "framing." It is this term that Yarn defines broadly in terms of a frame of reference.

² William Ury, *Getting Past No* (Bantam Books, 1993), p. 78.

³ *Id.* at 89-98.

⁴ *Id.* at 92.

⁵ Morton Deutsch & Peter T. Coleman, eds., *The Handbook of Conflict Resolution Theory and Practice* (Jossey-Bass, 2000), pp. 363-364.

⁶ Bernard Mayer, *The Dynamics of Conflict Resolution, A Practitioner's Guide* (Jossey-Bass, 2000), p. 136.

⁷ Ury, *supra* n. 2, at 80-89.

⁸ *Id.* at 78.

⁹ Christopher Moore, *The Mediation Process* (Jossey-Bass, 1996), p. 236.

¹⁰ *Id.* at 217.

¹¹ Kimberlee K. Kovach, *Mediation Principles & Practice* (West Publishing Company, 1994), p. 108.

¹² Dwight Golann, *Mediating Legal Disputes* (Little, Brown & Co., 1996), p. 71.

¹³ Deutsch & Coleman, *supra* n. 5, at 506.

¹⁴ Moore, *supra* n. 9, at 219.

¹⁵ *Id.* at 215.

¹⁶ *Id.* at 220.

¹⁷ *Id.* at 222.

¹⁸ Kovach, *supra* n. 11, at 108.

¹⁹ Mayer, *supra* n. 6, at 134.

²⁰ *Id.*

²¹ *Id.* at 135.

²² *Id.*

²³ Moore, *supra* n. 9, at 242-243.

²⁴ Deutsch & Coleman, *supra* n. 5, at 31-32.

²⁵ *Id.* at 363.

²⁶ Mayer, *supra* n. 6, at 135.

²⁷ *Id.* at 136.

²⁸ Moore, *supra* n. 9, at 206.

²⁹ Robert A. Baruch Bush & Joseph P. Folger, *The Promise of Mediation: Responding to Conflict through Empowerment and Recognition* (Jossey-Bass, 1994).

³⁰ *Id.* at 84.

³¹ *Id.* at 2.

³² *Id.* at 125-126.

³³ Deutsch & Coleman, *supra* n. 5, at 445.

³⁴ Jay Rothman, *Resolving Identity-Based Conflict* (Jossey-Bass, 1997), p. 33.

³⁵ Mayer, *supra* n. 6, at 165-166.

³⁶ Rothman, *supra* n. 34, at 18-19.

³⁷ *Id.* at 49.

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