Language As A Tool Of Mediation and Conflict Resolution

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We are in the communication business.

- Our success or failure is directly related to our skill.
- When we write, we have time to deliberate and make fine distinctions.
- When we speak or mediate, we are in a linguistic sense flying by the seat of our pants.
We adopt attitudes to almost every word.
Speech is irreversible
My goal today is to make you sensitive to language as a tool of conflict resolution.
My goal today is to increase your sensitivity to language as a tool of conflict resolution.
Our goal today is to work toward increasing our sensitivity to language as a tool of conflict resolution.
Language affects us subconsciously as well as consciously.
Six major questions we need to ask ourselves constantly:

- To whom are we talking?
- What do we say?
- How do we say it?
- What are they saying?
- What do they mean?
- How do we reframe to improve communication?
We must be ever aware of the power of metaphor.

- Many of our expressions are metaphorical.
- The philosophy of our forefathers lies hidden in them.
- Failure to recognize the underlying metaphor can be harmful to conflict resolution.
The essence of metaphor is understanding and experiencing one thing in terms of another.
Metaphor is more than some quaint figure of literary speech.
Metaphor becomes a way of thinking.

- Time is money.
  - How do you spend your days?
  - I’ve invested a lot of time in this project.
  - You’re running out of time.
  - You need to budget your time.
  - You don’t use your time profitably.
  - That flat tire cost me an hour.
Metaphors invade even our ideas of spatial orientation:

- Happy is **up**; sad is **down**:
- I’m feeling **up**. I’m feeling **down**.
- That **boosted** my spirits.
- I **fell into** a depression.
- You’re in **high** spirits.
- I’m depressed.
- He’s taking **Elavil**
We should examine the implications behind the metaphor.
For purposes of conflict resolution, the most damaging and most pervasive metaphor is the War Metaphor.
Our culture talks of almost everything as if it were a war.
Our world is filled with military metaphors

- We battle and conquer disease
- I don’t want to be shot down
- He went off half cocked
- That’s half the battle
- Price wars
- Launch a preemptive strike
- Inflation fighters
- They killed the bill/project
- We can’t surrender our principles
Argument = War

- His claims are indefensible.
- He attacked every weak point in my argument.
- His criticisms were right on target.
- I demolished his argument.
- You disagree! OK, shoot.
- He shot down all my arguments.
- If you use that strategy, he’ll wipe you out.

Lakoff
Two-valued orientation.

- A corollary of the war metaphor
- Assumes two sides and only two sides.
- Both sides/ all sides
- Win-win
- And now the other side of the story.
- Must listen to both sides of the question.
- Debate.
- Damaging in the CR context?
Agonistic responses:

- Are a kind of pre-patterned, unthinking use of fighting to accomplish goals.

- When you’re having an argument with someone, you’re usually not trying to understand them. Instead, you’re readying your response; listening for weaknesses in logic to leap on; points you can use to make them look bad and yourself look good.

Tannen
Our legal system reflects and reinforces our assumption that truth emerges when two polarized, warring enemies are set against each other.

Tannen
Continued reference to “two sides” results in a pervasive conviction that there are two sides only.

Tannen
Viewing intellectual exchange as a fight contributes to an atmosphere of animosity.

Tannen
Some collaborative alternatives to the argument/war metaphor:

- Exploring all aspects of the problem.
- Discussing various solutions to the situation.
- Investigating ways to help all parties meet their goals.
- Exchanging ideas.
- Talking over the problem.
- Working toward a resolution.
More alternatives to “argue” and “debate” --

- Discuss/chat
- Talk over
- Exchange views
- Deliberate
- Consider
- Analyze
- Study
- Swap ideas
- Scrutinize
- Review
- Examine
- Go into
- Weigh options
- Sift through
- Kick around (ideas)
- Confer
Discourse Analysis

- Useful tool for those involved in CR
- Scientific study of how we communicate
- Goes beyond vocabulary to structure
- Interaction
- Speech act
- Vocal delivery (pace, pitch, pauses, etc)
- Patterns of speech act and response
Bonding through chat or small talk.

- Handshake
- Preliminary conversations on subjects of universal agreement (weather, the traffic, last night’s ball game, etc.)
- Avoid getting too personal.
- Establishes an atmosphere of agreement even if the subject is one on which most people agree.
On the use of first names and surnames:

- Let it happen naturally?
- Maybe don’t want to move automatically and carte blanche into first name basis?
- Some persons may be best called by their title and surname until bonding is clearly established (elderly, minorities, some professionals, etc.,)?
- Be finely attuned to parity problems.
Tone Setting

- Talking in the desired tone
  - Friendly
  - Casual
  - Precise and logical
  - Formal
  - With emotion
  - With detachment

- Explicit declaration
  - Must be cautious about this matter
  - This is a serious matter
  - This is urgent
  - We must all pull together
  - Let’s roll up our sleeves and go to work
Loaded Vocabulary & Phrases

- Denotative versus connotative meaning
May want to think carefully before using these:

- Demand
- Compromise
- Settle
- Prove
- Win-win
- Debate
- Bottom line
- Take it or leave it.
- Opening statement
More to watch:

- Best offer
- Arena *versus* forum
- Jokes or risque stories
- Do you *need* help with your client......?
- Hyperbole
- Does this sound fair? *Versus* Does this sound acceptable?
- Clearly/ frankly/ honestly/ to be honest/ candidly
- Side/sides
We should be careful what names we give things, and shouldn’t automatically accept the names others use.

- Safety rope *versus* pool divider
- Reckless/ careless/ negligent
- Injury/ serious injury/ catastrophic injury
- Substantial/ significant
To Whom Are we Speaking?

- Lay person?
- Lawyer?
- Wrongful death survivor?
- E.G., “Cruddy case letter”
- Caucus/ /private meeting
Pulling the Fangs from Refusals
Consider these words?

- Difficult
- Dilemma
- Doubtful
- Impossible
- Impractical
- Unfortunately
- Regretfully
- Respectfully
- Reluctantly
- Unable
- Unavailable

Maggio
Consider these phrases?

- Although I am sympathetic to your problem....... 
- Although the idea is appealing..... 
- Difficult decision 
- Not inclined at this time.... 
- Hope this will be some help even though... 
- If it were possible 
- I’m sorry to tell you... 
- I must say no to... 

Maggio
Or These?

- I regret that I cannot accept....
- It is unfortunately out of the question
- I would like to help, but.....
- Not a choice that I can make right now
- Puts me in something of a dilemma
- Sincerely regret that....
- Your idea has merit, but.....
- I would like to accommodate you, but

Maggio
“No, Thursday’s out. How about never—is never good for you?”
Reflective Listening

- It sounds like.....
- In other words....
- So.....
- So you’re saying......
- It seems that..........  
- You mean.....
- I guess.......
Conversation Structure

- Turn-taking
- Turn-yielding
- Turn-claiming
- Turn-denial
- Silence
- Interruptions
- Noise for noise sake
- Termination of interaction
- Unresponsive speech acts
Some speech acts threaten the listener’s face:

- Interruption of a turn
- Not giving signs of active listening
- Forgetting the listener’s name, opinions, etc
- Accuse/ reprimand/ disapprove/ reject
- Challenge/ criticize/ insult
- Isolating the listener from the group
Reframing
By reframing, we:

- Signal active listening.
- Reshape thinking patterns derived from poor language skills.
- Help the parties see the situation in a different light.
- Signal an interest in problem solving.
- Improve communication between separate caucus groups.
Vocal delivery can be important.

- Vary pace.
- Lower pitch to project authority.
- Sharpen articulation.
- Pause for effect.
- Silence to promote disclosure and discussion.
- Lower voice when the parties raise theirs.
Body language is an integral part of discourse.

- Face the person squarely.
- Open posture.
- Lean forward.
- Eye contact.
- Touch (handshake)
- Relax.
- Mirror posture and pace
A “paradigm” is a set of units with shared characteristics – from which the speaker selects a unit for speech.
In choosing one item from a paradigm, the speaker is choosing a meaning relative to the set.

The listener derives meaning from her awareness of the other choices that were available to the speaker from the paradigm.

Muholland
Paradigm examples:

- **Legal documents** – contracts, wills, acts, laws, depositions, settlements, transcripts.

- **Discursive interaction** – chat, small talk, discussion, negotiation, debate, meeting.

- **Preliminary speech act** – opening statement, prologue, preliminary remarks, opening remarks, introductory remarks, overview.
Therefore the choice itself conveys meaning.

- Let’s chat about the matter. (= informal)
- Let’s negotiate. (= competitive speech)
- Let’s debate. (two-sided orientation)
- We’ll let the attorneys make an opening statement. (= argumentative)
- Invite the attorneys to provide an introductory overview. (= non-argumentative)
Language as a Tool of Conflict Resolution ---
Selected Bibliography

The books in this bibliography are listed in an order that reflects my view of their relative merit to the subject of “Language as a Tool of Conflict Resolution.”
Lakhoff, George and Mark Johnson. *Metaphors We Live By*. Chicago. The University of Chicago Press. 1980. (One of the best and most readable books on the pervasive use and influence of metaphors in our daily life. May have to special order.)
Tannen, Deborah. *The Argument Culture: Moving from Debate to Dialogue*. New York. Random House. 1998. (Offers intriguing insight into how in our culture we approach almost everything as if it were a fight. A good, contemporary look at the two-sided orientation and its effect on us.)
“What possible harm can come to this planet from teaching these miserable creatures how to use fire and simple tools?”