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What's in a Frame?

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Editors' Note: *How you conceive what your negotiation is all about, and how the other side perceives it, can be a complete mismatch resulting in mutual frustration. Here, Caton Campbell and Docherty address the all-important question of framing, providing a set of ways to think through your assumptions and those of the other side. You may want to read this chapter in close conjunction with those by Heen & Stone and Ricigliano.*

In most large-scale multi-party disputes, such as those characteristic of public policy and environmental conflicts, third-party intervenors make detailed conflict assessments before beginning facilitated or mediated processes.[1] Fundamental to these assessments is identifying and unpacking the multiple frames disputants hold, to get a clearer picture of the conflict's drivers.[2] Frames are perceptions that the parties hold about what defines the conflict, who is involved in it, how issues are presented, what the expected outcomes might be, and how outcomes will be reached and evaluated.[3] Frames structure disputants' conceptions of the conflict and exert profound influences on their behavior, strategizing, and choice of negotiating tactics. Frames can be malleable, although some are essentially immutable.[4] At times, disputants will cling to particular conflict frames that stymie negotiations and push conflicts into intractability. Thus, if left unexamined, frames can limit the range of possible solutions the disputing parties can envision.

This essay presents an entrenched, large-scale, multi-party conflict as the basis for a brief discussion of frames and framing dynamics. Its focus is on macro-level frames that determine the parties' approach to the conflict, including their perceptions of negotiation as a conflict resolution process, rather than on micro-level moves and countermoves among the parties while they are negotiating. Macro-level conflict frames structure the possibilities for resolution while micro-level frames shape the nature of party interactions at the table. Macro-level frames are important tools for understanding the long-term, strategic negotiation goals of a party, which may or may not be identical to the party's tactical goals in the negotiation itself.[5] In some cases, reframing can enhance the prospects for negotiation or conflict transformation, leading to resolution; however, in others, reframing is less plausible.[6] Although empirical research on multi-

party dispute framing is a relatively recent development, frame analysis has quickly become a central part of the conflict assessment pedagogical canon and the public sector dispute resolver's tool kit. Frame analysis can hold utility for lawyers and other representatives as well, as they seek to understand what motivates the strategic choices made by their clients and by those who sit across the negotiating table.

Highway Through a Monument: A "Road to Nowhere"?[7]

In the desert Southwest stretches a 17-mile-long mesa of black volcanic rocks covered with over 15,000 ancient carvings, some of which may date back 2,000 years or more. This boulder field is a sacred shrine for a Native American tribe, and draws other tribes from across the southwestern states for religious practices. Designated a national monument by the National Park Service over a decade ago, the 7,000-acre park lies directly west of a rapidly growing city of 700,000 residents. This sprawling city is landlocked by a forest to the north, a mountain range and a Native American reservation to the east, and an Air Force Base to the south. The city's planners project population growth of fifty percent over the next twenty-five years, to more than one million people, and expect most of the residential development accommodating the growth to occur west of the city. Housing prices in subdivisions on the city's west side are substantially more affordable than in the rest of the metropolitan area, but the monument is a physical barrier between the city and the undeveloped land to the west.

Three years after the monument's designation, developers and their political allies proposed a six-lane highway extension through the monument to connect future residential development with the existing highway that runs across the northern part of the city. Approximately one-quarter mile of the highway extension would cut through the national monument and require moving about a dozen of the ancient petroglyphs and the loss of 8.5 acres of the park for the highway corridor.[8] The tribe, which holds creation beliefs that their ancestors emerged from the earth, considers the monument an organic whole that links its people with the spirit world in the afterlife. As a result, the tribe also finds abhorrent options such as tunneling under the monument or building a bridge over it. For religious reasons, the tribe would even prefer that the ancient carvings were destroyed than relocated to another part of the park. The Native Americans vehemently oppose the road—in any form—as a desecration of sacred tribal lands.

The highway extension is backed by the City Council, most of the state's Congressional delegation, and the local business community. Voters' polls yield conflicting results: one poll conducted by a local newspaper shows that a slight majority of the respondents favor the extension through the monument, while another poll shows that a majority of the city's residents prefer an alternate route. (Voters rejected a previous referendum for the highway extension because the proposed location necessitated destroying several holes of a local golf course, causing tribal members to question what non-Natives consider truly sacred.)

During this time, as development begins to encroach on the monument, the debate surrounding the highway proposal turns vociferous and bitter. Critics of the monument and proponents of the road publicly question the legitimacy of the Native Americans' religious practices and the monument's importance to them. They contend that few in the area considered the monument sacred prior to its designation by the National Park Service, and that the tribes are being obstructionist about the city's future development. The tribes counter that because the religious rituals performed have always been kept

secret, the monument's cultural and religious significance has not been fully appreciated by people outside the tribes. Not only that, they fear that if the monument is desecrated by the road's development, this will set a precedent that opens the way for similar destruction of other sacred Native American sites elsewhere.

The city's recently elected mayor was the sole candidate, in a field of seven, who opposed the highway extension; however, he was elected to office by just twenty-nine percent of the electorate. In addition to a five-tribe coalition and the mayor, other opposition to the proposed highway extension comes from preservationists, environmentalists, the state's smart-growth anti-sprawl organization, the National Parks and Conservation Association, and the National Park Service itself. Besides their opposition to cutting through the monument, these groups point out that the highway extension has negative environmental consequences as well—there simply is not enough water available in the desert region to support the residential growth that the road would make possible.

Over a several-year period, discussions about the highway extension became extremely contentious, polarizing the many stakeholders involved. The state's Congressional delegation introduced bills in the U.S. House and Senate to remove the proposed 8.5-acre highway corridor from the national park and decertify the corridor from protected status. Native Americans held public protests against the proposed road. The parties were deadlocked and held rigidly to their positions. The city's growth is inevitable, but where and how it is accommodated is open to negotiation. Other aspects of this conflict may not be negotiable. How can we tell which are which? Frame analysis helps pinpoint where the conflict's tensions and intractability lie; it can guide strategic and tactical moves during negotiation, and it also reveals potential areas of agreement or opportunities for conflict transformation.

Generic Frames (Frames as Categories of Experience)

Researchers in communications,[9] and more recently in environmental conflict resolution,[10] have identified broad categories of frames known as generic frames or categories of experience. Parties in conflict do not necessarily use each one of these frames equally. Some frames may predominate, while others may not come into play at all. In still other instances, parties may have clashing versions of the same type of frame (a form of cognitive dissonance), or their frames may undergo shifts related to information learned during the course of negotiating a specific issue or problem. This chapter describes different types of frames and some of the ways frame analysis can help negotiators.

Worldmaking Stories

Even before parties encounter one another in a conflict, they hold large cognitive frames that can usefully be thought of as worldmaking stories.[11] Worldmaking stories are narratives that are told and retold by many people; they become symbolic focal points around which organizations, communities, and civilizations shape their collective lives. Each worldmaking story expresses the authoritative claims of the community that validates it, and every worldmaking story contains implicit, if not explicit, patterns of compulsions and permissions to act in certain ways and prohibitions against acting in other ways.[12] Some worldmaking stories are blatantly sacred; the worldmaking story of the Native American party in our case study would fall into this category. Other worldmaking stories are ostensibly secular, but they function as a sacred narrative because they, too, contain

claims about ultimate truth or authority, and they contain action imperatives and prohibitions. Many of the non-Native parties in this case are likely to bring a secular worldmaking story into this encounter—a narrative that assumes that human beings have the right to reshape the natural world and that the instrumental needs of the many outweigh the religious rights of the few. Some non-Native parties—possibly environmentalist and preservationist groups—may hold secular worldmaking stories that are akin to the Native American stories in their willingness to place non-instrumental factors above such things as growth and development.

Whole Story

Also known as substantive frames, whole story frames are the basic nutshell stories parties offer when asked, "What is this conflict about?" Parties use whole story frames to guide their behavior in negotiations. In the case described above, for example, proponents of the highway extension are likely to describe the conflict as being about the need to accommodate future urban growth. Environmental and anti-sprawl groups may describe the conflict as being about the physical and environmental limits to growth, while the tribes will likely describe the conflict as being about the desecration of sacred tribal lands. Early in the negotiation process, however, mediators can sometimes help parties jointly reframe their substantive frames into a single whole story frame more amenable to resolution. The extent to which this is possible can depend on the influence of other frames held by the parties. If less malleable frames dominate negotiations, as is likely in the case described here (see discussion below), a shared, whole story frame may not be achievable.

Since mediators also carry worldmaking stories with them, there is a significant risk that they will favor one whole story over another. For example, collaborative planning processes used to address environmental conflicts often use a narrative about stakeholders and interest-based parties. This worldmaking narrative recognizes actors who hold discrete, quantifiable, instrumental interests. It has a difficult time accommodating parties who make values-based claims about sacred space or the world as a sacred, living being.[13] The Native American parties in our case study may find it difficult to speak their truth into the negotiation arena; they may have to twist what they want to say to make it fit into a secular worldmaking story.[14]

Identity

One of the least malleable frames over time and a major contributor to dispute intractability,[15] identity frames describe how parties view themselves, both as individuals and as members of a group. They answer the question: "Who are we in this conflict?" Identity frames are also closely tied to worldmaking stories, particularly through the action imperatives and prohibitions contained in every worldmaking story. We are a people, because we do X, and we do not do Y; we believe A and we reject B. Identity frames are typically positive in tone and are based on parties' demographic characteristics, place or location, roles they play, interests they hold, and institutions with which they are affiliated. Because identity frames are fundamental to parties' self-conceptualizations, threats to either self-identity or group identity can cause conflicts to escalate rapidly.[16]

In the monument/highway conflict above, the tribe has a distinct, well-defined identity and culture (described here in its creation beliefs), which is being threatened not only by the proposed location of the highway, but also by the highway's proponents

casting aspersions on the validity of tribal religious practices. In addition, the potential exists for threats to Native American culture and identity more broadly if the door is opened to threatening the protected status of sites sacred to other tribes. Meanwhile, as is typical in development scenarios, the City Council and development community probably hold an identity frame constructed around their roles as protectors of the city's future and advocates of "progress." Given the checkered history between U.S. government at all levels (federal, state, and local) and Native American tribes as sovereign nations, interactions that question tribal identity are likely to cause this conflict to spiral rapidly upward.

Power

Recent research on intractable environmental disputes identifies nine categories of power frames: authority/positional (based on traditional sources such as role, job title, or institutional status), access to resources (money, staff, time), expertise, interpersonal style, coalitional/relational (group affiliation), sympathy/vulnerability (role as victim), force/threat (of legal action, coercion, or BATNA use), moral/righteous, and voice (participation at the table).[17] In our case, both the City Council and the mayor have power based on their authority as government officials, although the mayor's mandate is relatively weak because he did not carry a majority of the voters with him. They and the development community have power based on access to resources, expertise, and voice. The tribes have power based on moral (religious) grounds, although it may not be fully recognized by secular interests until the tribes exercise power through force or threat of legal action. They may also garner some power from a sympathy/vulnerability frame, given the history of federal government mistreatment of tribes. The tribes' ability to exercise power based on participation at the table (a voice frame) may be constrained by the sacred worldmaking story that they hold.

The same dispute can be variously framed based on interests, rights, or power, with different outcomes as a result. Disputes framed on the basis of parties' interests are more resolvable, while disputes based on rights (particularly when rights are in question) and power can be more polarizing.[18] In the monument/highway case, the Congressional delegation has clearly framed the dispute as one of power: the tribe's unwillingness to concede what in the legislators' view is a small percentage of the monument's acreage has led them to try to resolve the dispute by decertifying the land at issue (an exercise of legislative authority and power). The tribe, however, has framed the dispute as one of sacred rights to land of critical cultural and religious significance. Any third party intervenor walking into this situation should not assume from the outset that the conflict can be reframed as a dispute based on interests.

Conflict Management or Process

Conflict management or process frames encompass the parties' preferences for particular ways of dealing with a conflict. These range from passive strategies, such as avoidance, to increasingly more active strategies, such as fact-finding, joint problem solving, decisions based on expertise, appeals to political action, or direct action such as struggle, sabotage, or violence.[19] When the parties encounter each other in a stable negotiation context—based on established relationships and a stable sense of reality that exist within recognized social structures—mechanisms exist to support the negotiation process, such as mutually accepted norms about behavior and what is considered

fair, some certainty that the parties have a shared future, and formal or informal institutions that can enforce the resultant negotiated agreements. In other instances, parties must negotiate in a less stable context, in which their future together is uncertain; behavioral and fairness norms are unclear, disputed, or contested; and mechanisms and institutions to support negotiated agreements are controversial, fragile, or non-existent.[20] The stability of the negotiating context will influence the conflict management frames that parties adopt, with direct effects on the potential for conflict resolution.

One factor likely to contribute to a conflict escalation in this case is the clash between an overtly sacred worldmaking story and a secular worldmaking story. When a place is deemed sacred by some people and viewed as malleable and instrumental by others, we have a recipe for potential violence. This is particularly true when there is a great power differential between the group espousing a religious view and a dominant secular view that is being enforced by powerful authorities.[21]

Looking at nonviolent options, preference for particular process frames may hinge on parties' perceptions of their BATNAs (Best Alternative to a Negotiated Agreement). In a stable climate,[22] the City Council and Congressional delegation will fall back on conflict management processes rooted in technical expertise, adjudication, and political action, as indicated by the City's use of road-siting referenda and the Congressional delegation's introduction of legislation to decertify 8.5 acres of the monument for the road. The tribal consortium, on the other hand, has already demonstrated its preference for direct action through public protests. Other options available to highway opponents include simply delaying action until a threat is clearly felt (in the example, we are still at the "proposal" stage), and then taking legal action based on the National Parks Act, the National Environmental Policy Act, historic preservation law, or constitutional or legislative protections of religious freedoms.

Finally, powerful parties may lurk in the "shadows" of the conflict. While not directly at the negotiating table, these parties have the ability to influence the central conflict's outcome. If the negotiating parties directly at the table are to negotiate effectively, they must be aware of the existence of these powerful, but tangential actors. In some instances, the parties at the table may be able to influence the behavior of these actors; in other instances, they may not.[23]

Characterization

Characterization frames represent how parties view the "other." Although they may be positive in tone, they are more likely to consist of negative, often stereotyped attributions of blame (often captured in blaming stories[24]) or causality in the conflict. Characterization frames can be closely linked to identity in framing dynamics, since strong group identity can contribute to conflict escalation by fueling a party's negative characterizations of other parties.[25] For example, in the case at hand, the environmental and anti-sprawl groups opposing the road will likely characterize the City Council and development community as seeing no limits to growth. Road proponents have already pronounced the tribal consortium "obstructionist" and questioned the validity of their religious practices. This type of frame is more mutable, however, if a skilled intervenor can get parties to recognize each other's positive characteristics during negotiations.[26]

Risk and Gain vs. Loss

Risk frames come into play in environmental disputes when health and human safety are threatened by environmental hazards. Local governments, government agencies, and business interests will assess the potential risk of different outcomes using cost-benefit or contingent valuation analyses.[27] These rubrics do not incorporate the non-quantifiable concerns about risk that parties representing the public or special groups may have. They most clearly do not incorporate a religiously motivated party's sense of "spiritual risk." If a party sees itself as mandated to protect something sacred, it may endure bodily harm, severe hardships, or even death rather than "risk" failing in its duty to an authority that supercedes secular authorities.[28] Risk frames influence how parties perceive potential gains or losses in negotiations. Thus, parties that have borne disproportionate levels of environmental or social harm in the past may find what seems to some a small amount of harm, such as the destruction of a dozen of over 15,000 petroglyphs, to be completely unacceptable.

Frames as Issue Development

Another approach to framing not detailed here involves tracking frame shifts as the conflict unfolds over time. Aspects of this approach include an emphasis on negotiation context, particularly the history of relations between the parties, including the standard issues that are raised between them; issue shaping and conceptualization, or, how the interaction between parties shapes the issues under discussion and the frames in use; and, reframing or problem transformation, in which parties' conceptions of the conflict undergo substantive changes as a function of their interactions.[29] The primary tool for analyzing frames as issue development is linguistic discourse analysis, usually of transcripts from negotiation sessions.[30]

Strategies for Reframing and Transforming Conflict

Reframing and conflict transformation depend upon parties' willingness and ability to comprehend the views of the "other," by stepping outside their own cognitive frames and adopting a different perspective. Both substantive and procedural reframing are possible. Substantive reframing can involve the movement from frames based on power or rights to frames based on interests, as discussed above. It can also be based on a search for common ground on substantive issues.[31] Apology, conciliation, and reparations also play important roles in opening parties up to conflict transformation. [Brown & Robbennolt, *Apology*; Waldman & Luskin, *Anger & Forgiveness*]

Another helpful approach is to recognize that not all issues on the table are the same, and not all of the parties sort the issues into the same categories. One party may see everything on the table as subject to interest-based bargaining, while another party sees some things as bargainable and others as sacred. From outside that party's worldmaking story, the bargainable and the sacred may look very similar. The common error is to accuse this party of bargaining in bad faith or betraying the negotiation process. It is important for negotiators and third-party intervenors to learn how to "hear" a party's worldmaking story, so that they can recognize when and why some things are tradable and other things are not.[32] It is equally critical for negotiators to understand the role of principal-agent relationships and the effects these relationships can have on the time it takes to negotiate or mediate, particularly in an unstable negotiating context.[33] [Docherty & Caton Campbell, *Agency*]

Sometimes it is even possible to reach agreement and take joint action without reconciling frame differences. The parties can coordinate their frames rather than changing them.[34] [Docherty & Caton Campbell, *Agency*] This is particularly useful when working across a secular/religious worldview divide, like the one described in our case, so long as the negotiators recognize that they do not share frames. Otherwise, they are likely to assume they have reconciled their worldmaking stories when they have not.

In terms of process, reframing that promotes dispute tractability includes acknowledging the existence of underlying identity issues, such as the tribal concerns here, and reducing the negative characterizations that parties use to describe each other. Controlling the number and size of issues on the table can also help transform entrenched conflicts such as this one. Having multiple issues on the agenda can obscure the core issue in the dispute; thus, an essential part of conflict transformation may involve the stripping away of peripheral or "overlay" issues that may be of concern, but are not central to the conflict.[35] In addition, construction of shared place-based identity frames, a common conflict management frame, and mutually agreed-upon methods of risk assessment can enhance negotiations, as can agreeing upon the forum in which the decision will be made.[36] In long-term conflicts that have been intractable, it may be necessary to see a particular negotiation as only one small part of a process for transforming the conflict. Parties may agree to negotiate a few issues, but prefer to use other approaches to address different aspects of their conflict. For example, the tribes in our case may be more willing to negotiate about this site if the issue is framed as how to protect the site during development, not how much of the site can be damaged during development. They may also be more willing to negotiate if the negotiation is preceded by or coincides with a process of truth-telling about relations between Native Americans and European settlers in New Mexico.

Even in cases where fundamental differences between parties make a dispute quite difficult to resolve, intervenors are on occasion able to move parties away from a focus on the immutable, such as identity or worldview, to focus on other, practical aspects of the dispute that are open to reframing, such as conflict management process and aspiration frames. There are cases, though, in which a focus on the immutable—worldmaking stories, values, and rights—is precisely what the parties need. In these cases, disputes should be "resolved" through mechanisms other than negotiations.[37]

Conclusion

Whether parties are explicitly aware of them or not, frames and framing dynamics play a critical role in determining how they view each other, which tactics they choose, how they strategize in disputing contexts, and how the conflict management process unfolds. Negotiators who develop the capacity for paying attention to worldmaking stories (including their own!) will be more effective and creative when it comes to framing and reframing a dispute for negotiation.[38] As negotiators or third-party intervenors, we must train ourselves to listen for indicators of frame differences during a negotiation session; this involves honing our skills of "on the fly" discourse and rhetorical analysis, and learning when we need to ask for help from others who can serve as "worldview translators" when we do not understand the worldmaking story or frames of another party.[39]

Endnotes

[1] *See* Lawrence Susskind & Jennifer Thomas-Larmer, *Conducting a Conflict Assessment, in* THE CONSENSUS BUILDING HANDBOOK 99 (Lawrence Susskind, et al. eds., 1999); Marcia Caton Campbell, *Intractability in Environmental Disputes: Exploring a Complex Construct*, 17 JOURNAL OF PLANNING LITERATURE 12 (2003); *see also*, Deborah Shmueli, *Conflict Assessment*, *available at* http://www.beyondintractability.org/m/conflict_assessment.jsp (Oct. 2003) (last visited Mar. 9, 2006).

[2] "Causes" and "drivers" are two different things. It is risky to claim causality in conflict assessment (though perhaps that is a result of our training in philosophy). "Drivers," however, calls for "a clearer picture of what drives the conflict," and it is entirely appropriate to seek these. We can likely identify what is currently driving the conflict at the time of an assessment, which may be entirely different from what any initial "causes" might have been (if the parties can even agree on what those might be—and they have been known to get bogged down in that for a long, long time).

[3] ROY J. LEWICKI, ET AL., ESSENTIALS OF NEGOTIATION 31 (3d ed. 2001).

[4] *Id.; see also*, JAYNE SEMINARE DOCHERTY, LEARNING LESSONS FROM WACO: WHEN PARTIES BRING THEIR GODS TO THE NEGOTIATION TABLE (2001); Barbara Gray, *Framing of Environmental Disputes, in* MAKING SENSE OF INTRACTABLE ENVIRONMENTAL CONFLICTS: CONCEPTS AND CASES 23 (Roy J. Lewicki, et al. eds., 2003).

[5] Broadly speaking, parties' strategic goals relate to their long-term preference related to changing (or not changing) the relationships and power balance among parties in the conflict and remaking (or not remaking) social structures and established systems that govern their interactions. Tactical goals relate to the way parties attempt to shape the negotiation table and exert control over interactions at the table. For a more detailed discussion of strategic versus tactical negotiation, *see* JAYNE SEMINARE DOCHERTY, THE LITTLE BOOK OF STRATEGIC NEGOTIATION: NEGOTIATING DURING TURBULENT TIMES 5-15 (2005). For more on the relationship between larger conflict dynamics and negotiation, *see also* Caton Campbell, *supra* note 1.

[6] On the potential for reframing, *see generally* Michael Elliott, et al., *Lessons Learned about the Framing and Reframing of Intractable Environmental Conflicts, in* MAKING SENSE *supra* note 4; Linda L. Putnam & Majia Holmer, *Framing, Reframing, and Issue Development, in* COMMUNICATION AND NEGOTIATION 128 (Linda L. Putnam & Michael E. Roloff, eds. 1992); Gray, *supra* note 4, at 11-34. On conflict transformation, *see* E. FRANKLIN DUKES, RESOLVING PUBLIC CONFLICT: TRANSFORMING COMMUNITY AND GOVERNANCE (1996); DOCHERTY, *supra* note 4; Heidi Burgess & Guy Burgess, *Constructive Confrontation: A Transformative Approach to Intractable Conflicts,* 13 MEDIATION Quarterly 305 (1996).

[7] This case is adapted from James Brooke, *Sprawling Albuquerque Hopes to Cut through Monument*, N.Y. TIMES, Jan. 25, 1998, at 12; John McQuaid, *Standing Their Ground: Unwelcome Neighbors: How the Poor Bear the Burdens of America's Pollution*, NEW ORLEANS TIMES-PICAYUNE, May 24, 2000, at A6; *Highway Plan Through N.M. Petroglyph Memorial Rocks Community*, WASH. POST, Mar. 23, 1998, at A5.

[8] Brooke, *supra* note 7.

[9] Putnam & Holmer, *supra* note 6, at 128-55.

[10] Gray, *supra* note 4.

[11] DOCHERTY, *supra* note 4, at 61-62.

[12] W. BARNETT PEARCE & STEPHEN W. LITTLEJOHN, MORAL CONFLICT: WHEN SOCIAL WORLDS COLLIDE 54 (1997); DOCHERTY, *supra* note 4.

[13] DOCHERTY, *supra* note 4, at 66-67.

[14] In her dissertation, How Our Values Shape Our Practices: Exploding the Myth of Neutrality (unpublished Ph.D. dissertation, Syracuse University) (on file with author), Rachel Miriam Goldberg documents a case in which Native American negotiators struggling to achieve permanent resident status on their traditional homeland found themselves in the position of negotiating for permanent homes, because the agency they were dealing with (and some of the third party in-

tervenors) assumed that permanent residency required a permanent home. The conflict became heated, and many would say intractable, until a culturally savvy mediator asked the tribe to clarify what they meant by permanent residency. It turned out that the tribe never lived there permanently and did not want to live in permanent houses on the land now. They wanted the right to build temporary camps on the land during a specific season of the year, but the dominant cultural frame (worldmaking story) "forced" them to take a position they did not even hold.

[15] Gray, *supra* note 4, at 23.

[16] *Id.*; *see alsoi,* Caton Campbell, *supra* note 1, at 12-23.

[17] Gray, *supra* note 4, at 29-30.

[18] WILLIAM L. URY, ET AL., GETTING DISPUTES RESOLVED: DESIGNING SYSTEMS TO CUT THE COSTS OF CONFLICT 3-19 (1988).

[19] DOCHERTY, *supra* note 4, at 25-26.

[20] DOCHERTY, *supra* note 5, at 7-15.

[21] *See* CATHERINE WESSINGER, MILLENNIALISM, PERSECUTION, AND VIOLENCE: HISTORICAL CASES 3-39 (2000), for a discussion of internal and external factors that promote or mitigate violence in encounters between minority religious groups and secular authorities, *also see* James T. Richardson, *Minority Religions and the Context of Violence: A Conflict/Interactionist Perspective* 13 TERRORISM & POLITICAL VIOLENCE 103 (2001). In some cases the religious groups turn violence outward against authorities, but in many cases they turn violence inward against themselves. In the case described herein, the tribe's espoused willingness to destroy their own sacred site rather than see it moved or partially damaged should be explored carefully since it might be a form of symbolic violence turned inward on the community out of despair.

[22] DOCHERTY, *supra* note 5, at 7.

[23] *Id.* at 14-15. In the case under discussion, a powerful external actor—the New Mexico state legislature—had a direct and unfortunate (for the tribes) effect on the outcome of the highway conflict, exercising its legislative power to appropriate funds for the construction of the highway.

[24] DOCHERTY, *supra* note 4, at 63.

[25] Gray, *supra* note 4, at 24.

[26] There is some evidence that a secular/sacred divide between the parties may make it more difficult to get parties to recognize each other's positive characteristics. Insofar as the "religious" party's identity frame is tied to a worldmaking story about sacred space and "secular" parties treat that sacred space as instrumental, malleable, and subject to bargaining, the secular parties attack the identity of the religious party simply by stating their own preferred outcome. Insofar as the secular party shows a willingness to desecrate sacred space, they affirm the religious party's assumption that they are apostates, unbelievers, and possibly beyond redemption. *See* DOCHERTY, *supra* note 4, at 189-224.

[27] Gray, *supra* note 4, at 31.

[28] DOCHERTY, *supra* note 4, at 176-77.

[29] LEWICKI ET AL., *supra* note 3, at 38-40; *see also*, PEARCE & LITTLEJOHN, *supra* note 12; DOCHERTY, *supra* note 4.

[30] *See* Jayne Seminare Docherty, *Culture and Negotiation: Symmetrical Anthropology for Negotiators*, 87 MARQUETTE LAW REVIEW 711 (2004) (describing skills that let us hear the linguistic indicators of frames and changes in frames during a negotiation).

[31] *See e.g.,* John Forester, *Dealing with Deep Value Differences, in* THE CONSENSUS BUILDING HANDBOOK: A COMPREHENSIVE GUIDE TO REACHING AGREEMENT 463 (Lawrence Susskind, et al., eds. 1999) (discussing the Colorado State Health Department's process of priority setting regarding federal funding for HIV and AIDS treatment); *see also*, DUKES, *supra* note 6; Linda L. Putnam & Julia M. Wondolleck, *Intractability: Definitions, Dimensions, and Distinctions, in* MAKING SENSE, *supra* note 4; Jennifer Gerarda Brown, Marcia Caton Campbell, Jayne Seminare Docherty, & Nancy Welsh, *Negotiation as One Among Many Tools,* 87 MARQUETTE LAW REVIEW 853 (2004).

[32] DOCHERTY, *supra* note 4, at 154-88.

[33] DOCHERTY, *supra* note 5, at 49-56.

[34] DOCHERTY, *supra* note 4, at 170, 175-76.

[35] Burgess & Burgess, *supra* note 6.

[36] Elliott, et al., *supra* note 6, at 419.

[37] Caton Campbell, *supra* note 1, at 12-23; DOCHERTY, *supra* note 5.

[38] DOCHERTY, *supra* note 4, at 280-82.

[39] *Id.* at 290-99; *see also*, Karen Umemoto, *Walking in Another's Shoes: Epistemological Challenges in Participatory Planning,* 21 JOURNAL OF PLANNING, EDUCATION AND RESEARCH 17 (2001) (on the importance of cultural translators to facilitation in cross-cultural contexts).