

## **MEDIATION TRAINING MANUAL**

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*"We have thought of peace as passive and war as the active way of living. The opposite is true. War is not the most strenuous life. It is a kind of rest cure compared to the task of reconciling our differences...From War to Peace is not from the strenuous to the easy existence; it is from the futile to the effective, from the stagnant to the active, from the destructive to the creative way of life. ...The world will be regenerated by the people who rise above these passive ways and heroically seek, by whatever hardship, by whatever toil, the methods by which people can agree."*

Mary Parker Follett

1868-1933

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*"Our 'opponents' are our co-creators, for they have something to give which we have not.*

*The basis of all cooperative activity is integrated diversity.... What people often mean by getting rid of conflict is getting rid of diversity, and it is of the utmost importance that these should not be considered the same. We may wish to abolish conflict, but we cannot get rid of diversity. We must face life as it is and understand that diversity is its most essential feature... fear of difference is dread of life itself. It is possible to conceive conflict as not necessarily a wasteful outbreak of incompatibilities, but a normal process by which socially valuable differences register themselves for the enrichment of all concerned."*

Mary Parker Follett

## PREFACE

Mediation has the quality of being open, democratic, available to all, practical, and potentially healing as well. In the spirit, then, of our personal and *social* health, of our essential dignity and human worth, and of the special strength that comes from confronting our problems and finding compassion for our enemies, I offer this working manual to you as a generic introduction to the mediation process.

It is an eclectic compilation of materials representing many different approaches to conflict resolution. Some of these materials have been published, sometimes in earlier versions, in books written in whole or in part by me. Everything in it has been periodically re-invented and re-imagined as a result of mediating thousands of conflicts over the last thirty-six years. It now belongs to you, and you can use it as you wish.

This manual was originally a collective effort by the mediators of the Center for Dispute Resolution in Santa Monica, California, with the invaluable assistance of numerous member of the community of mediators whose ideas have freely circulated and become part of our general knowledge. It is dedicated to those who have been so hurt or desperate that they have been willing to injure others, and to those they have injured, as well as to the mediators who continually strive to reveal what is human in each of them.

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## *INTRODUCTION TO MEDIATION*

### WHAT IS MEDIATION?

In essence, mediation is an informal problem solving conversation facilitated by an experienced third party who is outside the problem. It is a voluntary, consensus-based approach that uses facilitated communication, emotional processing, creative problem solving, collaborative negotiation, brainstorming, impasse resolution, heart-to-heart communications and similar techniques to bring conflicting parties into constructive and creative dialogue.

Mediation differs from litigation and arbitration because the mediator is not a judge or arbitrator who decides the issues for the parties. Instead, the mediator invites the parties to participate in defining the issues, identifying creative solutions, and collaboratively implementing solutions. Mediation is future-oriented and less concerned with deciding who is right or wrong than solving problems so they do not occur again.

The mediator is neither a judge nor a censor, but s/he may express a personal opinion if it will help the settlement process. The mediator is not practicing law or therapy in mediation, but s/he may help the parties reach a settlement by providing them with legal information or psychological insight. Mediators are less “neutral” than “omni-partial,” and on both parties’ sides at the same time. Mediators often work in co-mediation teams that combine diverse racial, gender, ethnic and cultural experiences, along with contrasting areas of professional expertise and personal styles. Mediation sessions are generally informal and confidential to encourage direct dialogue.

Mediation is often called a “win/win” process, to contrast it to legal action in which one party must lose. While law is more “black and white,” mediation recognizes the legitimacy of both parties’ self interests and seeks ways to reconcile them.

Mediation is often able to reach solutions quickly, saving time, costs and attorney fees, and preserving privacy, and has proven highly successful in resolving a wide range of conflicts. Mediation can help people learn more effective communication skills and avoid bitterness and hostility.

Mediation is an alternative that allows people to express their needs openly, without being frightened, and to understand their opponent’s needs and the possibility of resolution without denying their own self-interests. It legitimates opposition, without making it one-sided. For these reasons, mediation is generally preferable to legal or adversarial forms of dispute resolution by advocates or representatives, and can be used to resolve virtually any type of dispute.

On average, experienced mediators resolve 85 to 95 percent of the disputes they address. Success depends on the insight, competency, training and experience of the mediator, as well as on the timing of the intervention, the complexity and emotionality of the dispute, the mediator’s ability to personally connect with the parties, and their readiness to participate in the process.

Conflict exists everywhere in society, from the beginnings of recorded history into the foreseeable future; yet rarely do we teach systematically or broadly, constructive techniques of dispute resolution. We grow up instead, learning techniques of conflict avoidance, accommodation, manipulation, aggression, violence and surrender.



## WHY MEDIATION?

Each case referred to mediation, by definition, begins at impasse. The parties feel powerless to affect a settlement, and the possibility of achieving their interests seems remote. Yet voluntary settlements are reached in up to 95 percent of disputes, and parties who had been locked in combat leave in agreement -- occasionally even in friendship -- wondering how it happened.

While mediators may credit their training or the settlement procedures they use, a more complex explanation may be necessary to understand why there are cases that do not settle; the techniques that work at one point in the mediation but not at another; and the subtle play of intuition, emotion and process on the interaction between disputants.

As mediation agreements are voluntary and reached by consensus, their formation takes place entirely within and between individual human perceptions. It is well known among mediators that a "hidden agenda" may block agreement. Hidden issues are always present in mediation, as the human will has many dimensions, some hidden even from the mind itself.

The mind is known today not to work simply in rational, linear and scientific methods, but in irrational, spatial and artistic ways as well. We not only capture the experience of the world as memory, we distort it through the lens of character, past experience, and feelings. Each of these may become critical in the mediators' effort to reconcile the parties to a mutual understanding of what is fair.

While part of the brain thinks in logical sequence, another sees symbols, or metaphor. Both parts affect the will. Both contribute to an understanding of conflict as a whole, and to the exclusive perspective of each of the combatants.

One reason mediation works is that it makes adversaries human to one another. It allows a dialogue to take place in the language of metaphor. It acknowledges the existence of the emotional needs of the parties, and allows both sides to tell the inner truth, the subjective and emotional truth, along with the supposedly "objective" truth.

Mediation helps individuals through empathy, rather than dividing them through the prospects of revenge or victory. It operates through compassion and love, rather than hate or dispassionate neutrality. It allows each side to listen to the other without becoming defensive, and encourages collaboration.

Mediation works because it reestablishes a lost connection and emphasizes the wholeness of human experience; because it enables parties to surrender by permitting both sides to win; because it makes open the secret sources of motivation; because it recognizes each human interest as valid; because it equally empowers combatants and democratizes the conflict; because it looks to the future rather than the past; because it gives constructive feedback as opposed to judgment; because the parties create it themselves and decide to accept it, rather than having it imposed on them, because no one enjoys being the object of another person's wrath, or being trapped by their own; and because the mediator creates an expectation, a modeling, and a basis for peace.

Consider the problem of motivation. We may use the traditional methods of the carrot or the stick, greed or fear, the desire to succeed and get rich or the threat of failure and poverty. These are external measures that reinforce powerlessness, diffuse

responsibility, deplete the will and fix the blame on others, in rewarding or punishing behavior.

The highest form of motivation comes not from without, but from within. It lies not in the arbitrator or the judge, but in our pursuit of pleasure -- the pleasure of human connection, of artistic creation or scientific discovery, of professional excellence or increased self-esteem, of giving and receiving. None of these are enjoyable if they are coerced. Yet coercion and external constraint remain dominant in the use of law.

In law, emotion, subjectivity and motive have no place. It is irrelevant to ask a defendant why he committed an act, yet in the answer is contained the secret of the crime. It is irrelevant to ask an employee why she was absent from work, yet the answer provides the remedy.

Mediation works because the motivation of disputants is made the center and object of the process. Motivation, as an expression of subjective desire, is not debatable. By separating people from positions and positions from interests, by surfacing motivation and generating options, mediators create a problem-solving process in which combatants form a team in an effort to reconcile their apparently conflicting self-interests.

Every conflict presents at least two views, and these two opposing camps, which appear to have nothing in common, often fit together as part of a system. The masochist has nothing in common with the sadist, or the optimist with the pessimist, yet as a system, as a partnership, they share a great deal, including their differences. Mediation allows conflict to be seen as a system.

Mediation provides the parties with substantive, procedural and psychological satisfaction by shifting the process from one of accusation/defense to negotiation/problem-solving. It relies on an "implicate" order and on wholeness, rather than on externally imposed rules or reductionist distinctions drawn in finer and finer detail.

Mediation works because it respects the person, because its process is open, because its ends are mutually agreed on, and because it encourages responsibility by all, both for the problem and for the solution. Mediation works because it accepts people as they are and allows them to change and become better; because it does not judge their actions but helps them do what they believe is right; because it encourages sympathy, hospitality, honesty, friendship, collaboration, and respect while acknowledging disagreement, anger, disappointment, rejection, denial and revenge. Mediation works because it accepts the human condition, while affirming its desire for self-improvement.

Mediation unites reason and intuition, love and self-interest, law and justice. It is unique in each case and the same all over the world. It is the reflection of ourselves in a mirror, and is no greater than the least of us or worse than our best. It works because it is already there.

Having conducted thousands of mediations over the past thirty years, certified hundreds of mediators and conducted workshops for tens of thousands of people in mediation and conflict resolution techniques, we have grown to appreciate the extraordinary value of mediation and increased our understanding of how and why it works, often miraculously and against all odds.

Mediation works on many levels. It stops people from fighting, de-escalates their aggressive behaviors, initiates deep listening and dialogue, acknowledges and affirms negative emotions, facilitates informal problem solving and collaborative negotiation, settles issues in dispute, resolves underlying issues that gave rise to the dispute, promotes forgiveness, encourages reconciliation, and helps design preventative conflict resolution systems.

As mediators work through successive levels of conflict, the skill and experience required to overcome obstacles and move to the next higher level, increases exponentially. Each new level also requires greater willingness and commitment on the part of the participants, and greater subtlety and artistry on the part of the mediator. But why exactly is it that mediation is useful? I believe it is because mediation:

- Invites adversaries to become human and real with each other
- Allows dialogue to take place in the language of metaphor
- Acknowledges the emotional needs of the parties and encourages both sides to tell their inner subjective truths, as well as their outer objective points of view.
- Brings people together through empathy, curiosity and listening, rather than dividing them in anticipation of revenge or unilateral victory
- Draws on their compassion, affection and love for one another, rather than their hatred, distrust or detached neutrality
- Asks each side to listen for deeper meaning and encourages them to participate in small collaborations without triggering distrust and defensiveness
- Helps opponents reestablish their lost connections and emphasizes the wholeness of human experience, as opposed to demonizing it or rendering it unintelligible
- Allows opponents to surrender, let go and move on with their lives
- Lays open the secret sources of their motivation
- Recognizes every human interest as valid and important
- Empowers everyone equally and democratizes their conflict
- Looks to the future rather than the past
- Offers constructive feedback
- Aids people in creating solutions for themselves and accepting them, rather than having them imposed from the outside
- Acknowledges that no one enjoys being the object of another person's wrath or being trapped inside their own, releasing them from their own rage and fear and that of others
- Creates an expectation of resolution, encourages hope, gradually reestablishes trust and allows people to imagine living in and being at peace
- Encourages people to move beyond rigid positions and understand each other's underlying interests
- Promotes authenticity and unconditional respect, minimizes difficult behaviors, discourages aggressiveness, reduces stress and elicits mutual compromises

- Makes the positive motivation of each person the center and object of the process, respects people and accepts them as they are, while simultaneously encouraging them to improve
- Does not judge actions or intentions but helps each person do what is right
- Reinforces and encourages empathy, hospitality, honesty, friendship, partnership and respect, while acknowledging disagreement, anger, disappointment, rejection, denial, aggression and revenge
- Supports everyone in getting what they want and need and allows them both to win
- Seeks to unite reason and intuition, love and self-interest, freedom and order, law and justice
- Is unique in every case yet fundamentally the same in every culture
- Gives everyone an opportunity to recognize their enemy as a reflection of themselves and see themselves as no greater than the least nor worse than the best in others
- Reveals the possibility of resolution that already exists inside each of us, waiting to emerge
- Invites each side to speak from their heart and let their spirit, authenticity and integrity shine forth
- Encourages people to reach out to their opponents and trust their intuition

Mediation is not easy, but if it can do even a few of these things, you will be successful.

### THE LIMITS OF MEDIATION

Mediation is too recent and immature for us to accurately know what its real limits are, but among them we may find there are these:

1. Power without purpose
2. Insanity without comprehension
3. Dishonesty without motive
4. Addiction without control
5. Greed without gain
6. Suffering without compassion
7. Revenge without self-interest
8. Trauma without meaning

## WHY MEDIATION WORKS, FROM A TO Z

Here is a slightly different set of reasons mediation works, arranged from A to Z:

- A. Mediation breaks issues down into "bite-sized" bits, isolating issues so they seem less complex.
- B. The process in mediation is collaborative rather than confrontational.
- C. Mediation acknowledges and values all human needs.
- D. Mediation does not rely on memory or credibility.
- E. Mediation allows the parties to decide the outcome.
- F. Mediation encourages creative remedies.
- G. Mediation is future-oriented, as opposed to law, which tries to resolve what happened in the past.
- H. Mediation permits parties to become human to each other and appear less like cardboard figures.
- I. Mediation allows both sides to see the problem as a whole.
- J. Mediation employs the synergy between the parties to bring about agreement.
- K. Mediation compliments the parties as opposed to insulting them.
- L. Mediation equalizes the power of the parties to compel a result, regardless of the difference in their real power outside the mediation.
- M. Mediation surfaces hidden agendas.
- N. Mediation lets quiet people speak and talkative people be quiet.
- O. Mediation allows parties to "fine-tune" a result or change their minds.
- P. Mediation encourages the parties to actually tell the whole truth, including the subjective and emotional truth.
- Q. Mediation connects parties through empathy.
- R. Mediation permits the mediators to model useful behavior and techniques for avoiding future conflicts.
- S. Mediation allows both sides to win.
- T. In mediation, the focus is shifted from people to positions and from positions to interests.
- U. Mediation permits dialogue to take place in the language of metaphor.
- V. Mediation reveals the parties' deeper motivations.
- W. Mediation allows for constructive feedback without the appearance of judgment.
- X. Mediation empowers both sides to say no.
- Y. Mediation lets the parties compromise and save face.
- Z. Mediation encourages the parties to substitute internal for external constraints and avoids enforcement problems due to resistance.

## MEDIATION AS A MONGREL PROFESSION

Mediation has been informed in critical and important ways by many professions and disciplines, which continue to be mined for their insights and practical contributions. Most significantly, these include:

- Law
- Labor-Management Relations
- Dialogue
- Group Facilitation
- Systems Theory
- Learning Theory
- Myth and Ritual
- Mindfulness Meditation
- Communication Theory
- Neurophysiology
- Economics
- Game Theory
- Coaching and Mentoring
- Neuro-Linguistic Programming
- Evaluation and Assessment
- Management Theory
- Team Building
- Sociology
- Theories of Justice
- Psychology
- Negotiation
- Arbitration
- Non-violence
- Prejudice Reduction
- Race and Gender Studies
- Buddhist Philosophy
- Spiritual Practices
- Art and Aesthetics
- Anthropology
- Community Organizing
- Physics and Mathematics
- Creative Problem Solving
- Feedback Techniques
- Quality Improvement
- Organizational Culture
- Collaborative Processes
- Political Theory
- International Relations

## TEN PHILOSOPHICAL PROPOSITIONS ON CONFLICT RESOLUTION

To understand the evolution of conflict and resolution at a deeper level, it has been helpful for me to articulate a set of fundamental propositions regarding the *human* reality and context in which they occur. The following ten philosophical propositions regarding conflict resolution may help explain its constantly changing, highly intuitive, deeply subtle, transitory character, and ability to regularly result in resolution, transformation, and transcendence:

1. *No two human beings are the same.* Everyone is different, and while we share certain characteristics, at a given level of nuance or subtlety, nothing that happens between two people is more than grossly predictable. Therefore, no conflict resolution technique, however evolved or skillfully executed, will succeed with everyone.
2. *No single human being is the same from one moment to the next.* Not only is it impossible to step into the same river twice because it is continuously flowing, *we* are continuously flowing and different from one moment to the next. Therefore, no matter how stuck anyone is, they can become unstuck at any moment.
3. *The interactions and relationships between human beings are complex, multi-determined, subtle, and unpredictable,* if only because they involve two or more different, constantly changing individuals. Therefore, while it makes sense to plan and strategize how we are going to resolve conflicts, it also makes sense to improvise and refuse to allow rigid plans or strategies to stand in our way.
4. *Conflicts are even more complex, multi-determined, subtle, and unpredictable* because they involve intense emotions, negative behaviors, miscommunications, contrasting cultural norms, jumbled intentions, false expectations, inconsistent attitudes, and dysfunctional systems, any one of which can increase the level of chaos and complexity. Therefore, linear, scientific, logically rigorous approaches to resolution need to be combined with holistic, artistic, creative, non-logical ones.
5. *Most conflicts take place beneath the surface, well below the superficial topics over which people are fighting, and often hidden from their conscious awareness.* These issues include emotions, interests, longings, memories, self-images, secret desires, the history and trajectory of their relationships, the systems in which they are operating, where, how, and why they got stuck, and the *meaning* of their conflict to each of them. Therefore, every conflict leads toward the center, not only of the issues in dispute, but the minds, emotions, and hearts of those who are stuck.
6. *Chronic conflicts are systemic, and all systems, be they personal, familial, relational, organizational, social, economic, or political, defend themselves against change, even when it is essential for their survival.* Therefore, the greater the need for change and deeper the potential transformation, the greater the resistance, the more intense the conflict, and the more difficult it becomes to even imagine resolving or letting it go.

7. *Every conflict is holographic and systemic, so that each part contains and recapitulates the whole.* Therefore, every issue in conflict, no matter how trifling or insignificant, is capable of invisibly altering the whole by transforming any of its parts, allowing even minor interventions to trigger major resolutions.
8. *Every conflict reveals an internal crossroads with each path branching and leading off in radically different directions.* Every conflict contains at least three paths: one moving backwards toward impasse, enmity, and adversarial relationships; one moving forward toward resolution, respect, and collaborative relationships; and one moving deeper into the heart of the conflict toward evolution and learning, transformation and transcendence. Therefore, every conflict allows people to choose how they will define their attitudes toward past, future, and present.
9. *Every conflict offers opportunities to evolve to higher levels of skill and awareness in how people respond to their opponents and problems.* Therefore, every conflict is a rich source of learning, improvement, and wisdom, both for people and for systems. More importantly, every conflict subtly and implicitly points their attention toward these sources.
10. *At the center or heart of every conflict lies a pathway to resolution, forgiveness, and reconciliation.* Therefore, conflicts have the capacity to ensnare and entrap or liberate and transform people, along with their ideas, feelings, intentions, attitudes, relationships, and the systems that created or fueled them. By opening our minds, emotions, and hearts in conflict, we *automatically* initiate an evolution to higher orders of conflict and resolution.

Several practical conclusions flow from these propositions. First, it is clear that each person's attitude, intention, intuition, self-awareness, environment, and capacity for empathetic and honest communication will significantly impact their experience of conflict and capacity for resolution. Second, because each person is different, each conflict is different, and both are different from moment to moment, no one can conceivably know objectively or in advance how to resolve a given conflict, as anything that is chaotic or rapidly changing cannot be successfully predicted or managed. Third, for this reason, it is impossible to instruct anyone in detail on the best way to resolve a particular conflict, other than to develop their skills, increase their self-confidence, and develop a broad range of techniques that may or may not succeed depending on unpredictable conditions. Fourth, to resolve the underlying reasons for a dispute or learn or evolve, it is necessary to probe beneath the superficial issues people are arguing about and bring the *meaning* of their conflict into conscious awareness. It will then become possible to increase empathy, encourage dialogue, resolve issues collaboratively, and negotiate interest-based solutions, which can lead to a profound understanding of the systemic sources of the conflict and ways of working collaboratively to change them.



## OVERVIEW OF THE MEDIATION PROCESS

### **PREPARATION**

Decide how you and the co-mediator will communicate and how you want to handle the session.

If possible, have all parties arrive at the same time.

Set up the furniture in advance. Angle the chairs toward the mediators.

If possible, have all the parties arrive at the same time.

### **INTRODUCTION**

Welcome the parties to the session and thank them for attending.

Ask if it is all right for everyone to be on a first-name basis.

Explain the mediation process:

- Mediation is a voluntary method for resolving disputes.
- Mediation provides a way of negotiating settlements without giving the decision making power to someone else.
- Mediation works only through consensus and mutual agreement.
- At the end of the session, you may be asked to sign a written Mediation Agreement. This is a record of the agreements you reached. It is not legally binding unless you decide to make it so.

Have the parties sign a Pre-Mediation Agreement or Statement of Understanding.

### **GROUND RULES**

The mediator is not a judge or arbitrator and decides nothing.

Everything said in the session will be confidential. The mediator cannot be subpoenaed and no one can testify in court about what was said.

It may become necessary to meet individually with one or both parties in a caucus. Anyone may request a caucus at any time. Nothing said in the caucus will be kept confidential unless you ask that it be confidential, in which case the mediators will respect your confidence.

### **OPTIONAL GROUND RULES**

Are both of you willing to be truthful with one another?

Can you begin by talking to the mediator, rather than to each other?

Can you both agree to be courteous?

Are you willing to listen to each other without interrupting?

Is it acceptable that the mediators decide who will speak and when. Each party will be given several turns to speak.

The mediators will take notes throughout the session, but these will be kept confidential or destroyed afterwards.

### **ROLE OF THE MEDIATORS**

The role of the mediators is to:

- Help each person to understand what occurred.
- Help each party to better understand the other.
- Help both sides come to an agreement.
- Remain as non-biased as possible. If any of the parties feel the mediator/s is biased, they need to tell the mediators how they feel.

If it becomes necessary to meet individually with one or both of the parties, be sure to meet with both and create a common understanding of how long it will last.

### **SUMMARY**

In summary, what we need to do today is to:

- Come to a better mutual understanding of the events and feelings that have occurred.
- Review the situation as each of you see it to find out if we can discover some common ground for agreement.
- Make sure the agreements you reach feel appropriate for both of you.
- Draw up a Mediation Agreement.

Make sure each of the parties has been involved in the creation of consensus over the mediation process.

Ask if each person is committed to working toward finding a solution, and if appropriate, why.

### **OPENING STATEMENTS**

- Ask one person to tell his/her side of the story. Start either with the victim or complainant, or with the person who is the angriest or least powerful, or the one who will not listen until they have spoken.
- Use active listening techniques, acknowledge, clarify and summarize.
- Ask the other person to tell his/her story.
- Point out what you see as areas of agreement or consensus.
- Probe for deeper underlying issues.

### **MEDIATION TECHNIQUES**

Ask each person what s/he hopes to gain from the mediation -- if there were an ideal outcome in an ideal world, what would it be?

Decide what issues need to be dealt with.

Tackle issues one at a time.

- Reach agreements on each issue.

Generate ideas by throwing out "what if" statements, or brainstorming.

Try to build reasonable doubt in both parties regarding their positions.

Ask open-ended questions, including “who, what, when, where and what if”.

Avoid questions that can be answered with “yes” or “no.”

When you don’t get an answer, ask again in a slightly different manner, or ask the person to think about it for a moment.

When you are tempted to make a statement, ask a question instead.

Try to get the parties to offer solutions, rather than you.

Give the parties permission to continue their conflict without your assistance as a means of ensuring they want to reach agreement.

Avoid making opinion statements, commands or moralizing. Instead, use data statements that are verifiable, unemotional, present-oriented and based on equality for both sides. Data statements do not use “I think” clauses; do not demand compliance or state consequences for non-compliance.

Do not have a goal or pre-set outcome in mind.

Every time there is an area of agreement, record it to make sure it becomes part of the Mediation Agreement.

State areas of commonality or agreement frequently.

Use active listening techniques so the party knows you have heard what s/he has said and so the other person can hear it better.

Summarize each side’s statements as a cue to turn to the other side for comment.

Ask frequently if there are other points or comments related to the item or point being discussed.

Maintain control of the session. Stick to the ground rules.

Always treat both sides equally.

Slow down and soften your voice to help keep the situation calm.

Draw up a Mediation Agreement that each party can agree to.

Have each party sign the Mediation Agreement.

End by complimenting the parties, acknowledging their contribution and ending on a positive note.

## A GLOSSARY OF DISPUTE RESOLUTION TERMS

The following glossary includes definitions of the various forms and techniques of dispute resolution as well as words and phrases used commonly by practitioners.

**Adjudication** The solution to a particular conflict as determined by a judge or administrative hearing officer with the authority to rule on the issue in dispute. Generally speaking, adjudication also implies that judgments will be rendered according to objective standards, rules, or laws.

**Arbitration** A process that involves the submission of a dispute to a neutral third party who renders a decision after hearing arguments and reviewing evidence. It is most widely used in commercial and labor management and civil court cases. Arbitration is more informal, less complex, quicker, and less expensive than formal court proceedings. It is performed by anyone acceptable to the parties.

**Court-Ordered Arbitration** Also referred to as “court-annexed” or “judicial” arbitration. One of the newest forms of arbitration, usually mandatory and non-binding. Certain civil suits -- usually personal injury and contract matters -- are referred by judges to arbitrators who will render a decision. If a party does not accept the arbitrator’s decision, it may then appeal for a trial.

**Facilitation** The collaborative process used to help a group of individuals or parties with divergent views reach a goal or complete a task to the mutual satisfaction of all participants. A facilitator helps the parties improve the definition of issues and increases the likelihood that consensus will be reached.

**Fact-Finding** The non-binding process used primarily (but not exclusively) in public sector collective bargaining that paves the way for further negotiation or mediation. A fact-finder draws on information provided by both parties as well as additional research to recommend resolutions for outstanding issues.

**Mediation** A structured dispute resolution process in which a neutral third party assists disputants in reaching a negotiated settlement. The mediation process is generally voluntary and aims at a signed agreement defining the future behavior of the disputants. A mediator helps parties communicate, negotiate, and reach agreements and settlements but is not empowered to render a decision. The process can be mandatory or encouraged by the courts, particularly in divorce and custody matters, civil, and minor criminal cases.

**Med-Arb** A dispute resolution process that combines some of the features of both mediation and arbitration. Most med-arb proceedings call for a third-party neutral to first mediate or help the parties agree to as many issues as possible and then, by permission of the disputing parties, to arbitrate or make a decision on those that remain. The same neutral may perform both roles, or the role can be split between several neutrals.

**Mini-Trial** A method of dispute resolution that helps to bring about a negotiated settlement between corporations or between a corporation and the government.

**Multi-Door Court House** (Also referred to as Multi-Door Center.) A judicial innovation that offers a variety of dispute resolution services in one location and uses a single intake system to screen cases and clients for referral to mediation, arbitration, or other methods.

**Negotiation** The heart of most dispute resolution techniques. Various defined as communication for the purpose of persuasion; a way of solving problems and a process for reaching decisions.

**Neutrals** An impartial intervener, often referred to as a third party, used in dispute resolution. A neutral does not benefit from a particular outcome.

**Ombudsman** A neutral who receives and investigates complaints or grievances aimed at an institution by its constituents, clients or employees. Ombudsmen have the power of persuasion, but not the authority to decide how a given dispute should be resolved.

**Private Judging** The popular name given to a procedure -- presently authorized by legislation in six states -- in which the court can (on stipulation of the parties) refer a pending lawsuit to a private neutral party for trial with the same effect as though the case were tried in court. The verdict can be appealed through the regular appellate court system.

**Public Policy Mediation** A form of mediation that aims at bringing together affected representatives of business, public interest groups, and government to negotiate agreements on policy development, implementation, or enforcement. Facilitators or mediators are usually used to organize and guide the process.

**Regulatory Negotiation** A form of public policy mediation where affected parties reach agreement on key provisions of proposed government regulations through the assistance of a mediator(s).

**Special Masters** Judicial adjuncts appointed by a judge to conduct mediation, arbitration, fact-finding or settlement negotiation. A special master may develop an agreement, implement one, or help enforce an agreement or a judge's decision.

**Summary Jury Trials** A dispute resolution procedure where lawyers present an abbreviated version of their arguments before a mock jury chosen at random from the jury pool. The jury deliberates and returns a recommended verdict on liability and damages. Lawyers are permitted to question the jury about their verdict and are, thereafter, encouraged to engage in direct settlement discussions. The process is designed and used for complex litigation that would involve considerable court time if not settled.

(Based on material prepared by the National Institute for Dispute Resolution)

## OVERVIEW OF CONFLICT RESOLUTION

### CONFLICT AS OPPORTUNITY

For the most part, our responses to conflict are negative. We view it as something to be avoided when it comes from others, and destructive when it comes from ourselves. When we are recipients, we try to escape, injure the other, deny or minimize the problem that created it. When we are perpetrators, we want to express our anger or hurt the other person so we can let go of it.

It is rare that we think of conflict as something positive. Yet all growth creates conflict. So does change. If we look at conflict as an opportunity for growth, change, improved understanding, intimacy, improvement, communication, or reconciliation, we may be able to approach it with the goal of learning, rather than aiming for self-protection or the infliction of pain.

Avoidance and anger are often seen as the only possible responses to conflict. Either I have to walk away and keep my mouth shut, or I have to become enraged and yell or scream. Yet between these options lie an almost infinite variety of responses that are difficult to think of while we are busy trying to escape or responding in kind.

The first step in seeing conflict as opportunity is learning how to avoid the “fight and flight” response and look for something in-between. One way to achieve this is by listening. “Active listening” techniques are based on the realization that conflict is a request for communication. One purpose of anger is to get through to the other person so they can finally hear what you are saying. By establishing eye contact, asking open-ended questions, clarifying, summarizing, reframing, and other similar techniques we learn more about what made the other person angry, but we also sidestep escalation by not responding in kind or running away, but trying to find out where the anger came from.

Another technique is withhold your response, to realize that the angry person needs to vent, and refuse to take whatever is said personally. Understand that the other person is angry at what you did. If they don't approve of who you are, they are entitled to their opinion but that should not make the least difference to you. It is our own fragility that makes us angry or defensive. The largest part of anger, in fact, has nothing whatsoever to do with the person it is directed against, but their actions, or to self-anger which is re-directed outside.

A third step in seeing conflict as opportunity consists in stating clearly and without rancor, our own needs and self-interests. Giving in to anger only encourages it, cheapens the victory for the other side, and permits the other person to maintain a collapsed view of your integrity. Asking for what you want or need is essential to convert the expression of anger into a bilateral statement of needs and desires so that negotiation can take place between equals.

A fourth step is to clearly state the problem. This appears easier than it actually is, since the presenting problem may not express the underlying reasons for its existence or continuation. As long as the focus is on gaining the other persons attention or saying what you want or need, no dialogue is possible. To have a dialogue, there must be a single agreed upon point of reference. This may be a neutralized and impartial statement of the issue, or what the conflict is about.

A fifth step is to list the alternative ways the problem might be solved. Most people assert only one, which is their position, or how they would like to resolve it. Conflict becomes opportunity at the movement when the dialogue shifts from positions (what you want) to interests (why you want it).

The reason is that interests are rarely mutually exclusive and can be satisfied in multiple ways, whereas positions are nearly always in opposition and represent only one of many possible outcomes. Positions are cognitive traps that narrow thinking, perception, and the range of possible outcomes. Interests broaden these and focus on the future rather than the past.

A sixth step is to look for criteria or standards, or rules for resolving the dispute fairly. Criteria allow anger to shift into problem solving. Other useful techniques include focusing on the problem, not on the person; look to the future rather than the past; attempt to satisfy the other parties interests as well as your own, and attempt to be generous, or at least willing to compromise. This will be easier if you have already been clear about stating what you need. Generosity in any area will be most often matched by escalating generosity on the other side, just as anger escalates in the opposite direction.

There are many other steps in the process of negotiating, problem-solving, mediation, overcoming impasse, clarifying areas of agreement and closure, but these only affect the degree of opportunity that can be created. It is more important to understand the nature of the opportunity that conflict creates.

Conflict creates opportunities for several kinds of increased communication, intimacy and understanding. These have to do with the other, the self, the subject or content of the dispute, the relationship between them, and the nature of conflict itself.

1. *The Other:* Conflict allows for a deepening of empathy and intimacy with the other. This is often the case in families, but also at the workplace, with neighbors and organizations. Anger collapses the “other” into a stereotyped villain, while dialogue resurrects the human side of their personality.
2. *The Self:* Conflict allows for growth, realization and self-improvement, which anger and shame defeat. We may recognize that our behavior is not having the effect on others that it is intended to have, or that we need to take greater responsibility for our lives, or that we are capable of more than we think. Most important is that we feel empowered when we are able to overcome our problems and weakened when we either run from them or fight back. Victory in anger can be a source of defeat when we recognize the impact we have had on others and ourselves.
3. *The Subject of the Dispute:* Conflict is an opportunity to learn more about what doesn’t work in order to be able to fix it. Solutions depend on problems that depend on communication, which depends on halting the escalation and seeing the opportunity within the conflict. Different, even opposing points of view help create a larger and more varied picture of the problem, which leads to a richer, more comprehensive and effective solution.
4. *The Relationship:* Having gained understanding of the other, the self and the problem, there is still the interaction between them to be considered. A husband and wife may have a conflict over where to live, but the reason the conflict escalated may have more to do with the history and quality of their

relationship, the way they communicate their needs and their secret expectations for the relationship than with anything else. These are opportunities to improve the relationship, which will help prevent future conflicts.

5. *The Nature of Conflict:* Awareness of process, of how we get angry, along with why or with whom, allows us to reach a deeper level of understanding of the conflicts we experience repeatedly, and be less inclined to fight or flight. This is the “opportunity of opportunities”, which allows us to gain insight into our feelings and actions and those of others, so that we can prevent conflicts from escalating to the point where opportunity becomes hidden.

Thus, conflict can be a source of communication, intimacy and understanding leading to personal growth, better relationships and greater insight into how we might handle our own conflicts proactively, positively and preventatively, rather than allowing them to handle us.

We can learn to look on conflict as a challenge rather than a burden, as something positive, with enormous potential, and even to anticipate with pleasure the next chance to turn conflict into an opportunity for positive change.

### **SOME CROSSROADS IN CONFLICT**

Every conflict is a crossroads, represented on the one hand by a problem we are now required to solve, and on the other by the fact that we do not yet have the skills we need to solve it. In truth, there are many crossroads in conflict. Here are my top ten:

1. Whether to participate in the conflict and behave badly, or calm down and try to discuss it
2. Whether to acknowledge the other person’s truth or deny it, remain rooted in our own story, and slip into biased or delusional thinking
3. Whether to experience intense negative emotions and feelings, or to repress and sublimate them
4. Whether to aggressively assert and hold tight to our position, or search for solutions that satisfy both sides’ interests
5. Whether to experience our opponent as an equal human being entitled to respect, or demonize him or her and victimize ourselves
6. Whether to acknowledge and grieve our losses and let them go, or hold on to our pain as something precious and continue reliving it
7. Whether to learn from our opponent and the conflict so as to transcend it, or hold on to our grievances and being right, leaving it bottled up inside
8. Whether to try and correct the person or the system we have both been operating in
9. Whether to forgive and re-integrate with our opponent, or remain isolated and wounded deep inside
10. Whether to open our heart again to the other person, and reach true reconciliation



## COMPONENTS OF CONFLICT

<b>Indispensable Component</b>	<b>Likely Results of Component</b>	<b>What is Needed, Wanted or Missing</b>	<b>Possible Strategies for Intervention</b>
1. <i>Two or More People (or internal parts of the same person)</i>	Diverse Interests, Isolation, Distrust, Competitive Relationships	Communication, Openness, Positive Intent, Common Goals	Ground Rules, Listening, Story Telling, Empathy, Common Interests
2. <i>Disagreement over Content, Process, Relationship, or Outcomes</i>	Unresolved Issues, Differences over Facts, Competing Issues, Personal Solutions	Engagement, Logical Analysis, Neutral Identification and Discussion of Common Interests	Brainstorming, Collaborative Negotiation, Creative Problem-Solving, Dialogue
3. <i>“Negative” Emotion, i.e., Anger, Fear, Jealousy, Shame, Guilt, or Grief</i>	Unexpressed or Hostile Emotions, Incomplete or Inadequate Compassion and Letting Go	Emotional Closure, Introspection, Venting, Empathy, Acknowledgment, Self-Esteem, Rituals, Completion	Venting, Acknowledgement, Caucusing, Emotional Processing, Rituals of Closure
4. <i>Lack of Awareness of Self or Other, Antagonistic Spirit, Intention, or Energy; Intolerant or Unforgiving Aim, Attachment, Embittered Life Force, or Chi</i>	Chronic Conflict, Illness, Injury, Blindness to Self and Others, Confusion, Spiritual Imbalance, Feeling Stuck, Incessant Suffering	Forgiveness, Mindfulness, Expanded Awareness, Compassion, Authenticity, Acceptance, Release, Letting Go	Honesty, Empathy, Introspection, Centering, Meditation, Ritual, Shift from Negative to Positive Energy
5. <i>Closed-Hearted Attitude, Hostile, Self-Centered, or Withholding Outlook</i>	Dysfunctional Relationships, Depression, Self-Centeredness, Broken Heart	Reconciliation, Compassion, Positive Attitude, Heart-to-Heart Dialogue	Open Hearted Communication, Confession, Learning, Acceptance of Self and Other
6. <i>Adversarial, Bureaucratic, or Highly Competitive System, Context, Culture, or Environment</i>	Inimical Social Conditions, and/or Structure or System; i.e., Inequity, Hierarchical, Bureaucratic and Autocratic Relations	Systemic Change, Collaborative Relationship, Cultural Sensitivity, Increased Equity, Equality, and Democracy	Transform System, Alter or Adapt to Environment, Balance Power, Build Participation, Consensus, and Ownership

## DIMENSIONS OF CONFLICT RESOLUTION



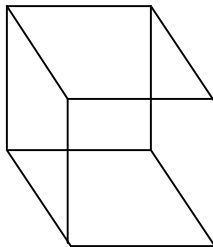
= 0 Dimensions = Impasse



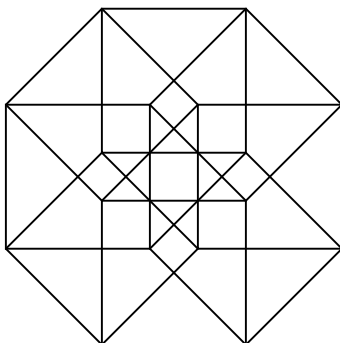
= 1 Dimension = Power-Based, Dictatorial, My Solution  
Fact-Informed, Leading to *Obedience* or Punishment



= 2 Dimensions = Rights-Based, Adversarial, Compromise  
Legally Informed, Leading to *Acceptance* or Rejection



= 3 Dimensions = Interest-Based, Collaborative, Emotionally  
Informed, Leading to *Consensus* or Win-Win Negotiation



= 4 Dimensions = Heart-Based, Caring, Relationally  
Informed, Leading to *Unanimity* or Dialogue

### EXAMPLE: DIMENSIONS OF CONFLICTS OVER CURFEW

To make the multi-dimensional metaphor more concrete, consider a different example—a typical parent/adolescent disputes over curfew. In zero dimensions, both sides remain at impasse and simply exchange insults or accusations that lead nowhere. A single dimension might be represented by the parent “laying down the law,” and insisting on 10 P.M. as the hour to return home, leaving the teenager with three options: blind obedience, passive-aggressive behavior, or open rebellion and consequent punishment.

Two dimensions require two inputs, suggesting that both sides get to advance their own unique positions. This can be represented by the parent continuing to uphold 10 P.M. and the teenager arguing for 2 A.M. as the proper time to return home. The natural outcome is likely to be a compromise ranging from 10 P.M. to 2 A.M., based on their relative power. In many families, the ability of a teenager to state their position and have it heard suggests a significant transformation in the parent-child relationship.

A third dimension introduces the idea of depth, represented by each side clarifying the interests that underlie their positions. This might consist of a parent articulating the need for safety (while minimizing or denying the importance of independence), and a teenager battling for independence (while minimizing or denying the need for safety). Yet which of these values can be disregarded or defeated without jeopardizing the other? Who should win or lose this conflict?

The only sensible solution is for both sides and their respective interests to win. It is not safety *versus* independence, but safety *plus* independence that yields the highest outcomes in the end. The best solutions will be those that recognize the intrinsic unity that underlies these seemingly opposite interests. Doing so requires the parent, first and foremost, to affirm and support the teenager’s desire for independence, and the teenager to affirm and support the parent’s desire for safety.

More profoundly, they may decide to speak openly to each other about their emotions and tell each other stories about the experiences that produced them. The parents may be motivated to insist on 10 P.M. by feelings of fear and underlying love for the teenager, perhaps because of some incident that occurred when they were teenagers. The teenager may be motivated by feelings of shame before schoolmates and peers as a result of derogatory comments that were made because they were required to leave before everyone else did.

A fourth dimension can be triggered by both sides recognizing that the family as they have known it is about to die, since the teenager is getting ready to leave home forever. Both sides may be feeling grief, joy, fear, and excitement in anticipation of their impending separation, yet the chances are quite good that neither has spoken openly to the other about the life-altering changes that are covertly influencing their negotiations.

In a fifth dimension, they may sidestep their conflict over curfew to discuss sensitive, heartfelt questions, such as: Who will they be without each other? What will happen to their love for each other? How will they be able to function? How can they learn to accept and trust each other? What can each of them do now to improve their relationship and keep the family together? These unspoken, heartfelt questions surreptitiously yet profoundly affect their conflict over curfew, and will allow them to evolve—not only to higher levels of communication, relationship, and decision-making, but conflict and resolution as well.

In a sixth and seventh dimension, they may discover ways of improving their families' conflict culture and redesigning now-outmoded family systems and environments to accommodate their future transition from childhood to adult relationships, or allow for different outcomes at different agreed upon stages. Their dimensions of communication and conflict resolution, beginning with impasse, can be diagrammed as follows:

	<u>Focus</u>	<u>Parent</u>	<u>Teenager</u>
0.	<i>Insults &amp; Accusations:</i>	"Irresponsible"	"Bossy"
1.	<i>Parent's Position:</i>	10 PM	Obedience or Punishment
2.	<i>Both Positions:</i>	10 PM	2 AM
3.	<i>Interests</i>	Safety	Freedom
4.	<i>Emotions</i>	Fear, Guilt, Loss	Shame, Anger, Loss
5.	<i>Spiritual Reality</i>	Death of the Family	Loss of Security/Support
6.	<i>Heartfelt Desire</i>	Love, Acceptance	Love, Acceptance
7.	<i>Family System</i>	Prevention, Redesign	Supportive Relationship

Ultimately, we can see that there are only two goals or purposes for any conflict over curfew: to transfer responsibility for safety from the parent to the teenager consistent with freedom, and to transition from a family system based on parental control to one based on voluntary, consensual, adult relationships grounded in familial love. These only *begin* to become possible at Level 3, yet many families never get beyond Level 2. Nonetheless, we can see in retrospect that this was *precisely* what the conflict took place to teach them.

We can also see that each transition to a higher dimension can be triggered by a few relatively simple questions. For example, starting at one dimension, a mediator might ask the parties

- what they want,
- why they want it,
- what they are feeling,
- what deeper realities are they about to face,
- what kind of relationship do they really want with each other in their hearts,
- what do they think they might do to make their family system and conflict styles more effective in the future.

Underlying much of the resistance to adopting higher dimensional approaches and evolving as a family is the reality that doing so requires them to surrender their denial about the loss of their old relationship, genuinely transfer power from the parent to the teenager, and transform the way conflicts are resolved in ways that reflects a wide-ranging evolutionary shift from power and rights to interests.

## ALTERNATIVE DEFINITIONS OF CONFLICT

What follows are a set of alternative definitions of conflict drawn from my experience over several years in mediating a wide variety of disputes:

1. Conflict represents a lack of awareness of the immanence of death or sudden catastrophe. As we were more aware of the finite quality of our lives our conflicts seem less important.
2. Conflict arises wherever there is a failure of connection, collaboration or community. When we act together, our conflicts become mere disagreements.
3. Conflict reflects our inability to understand our essential inter-connectedness, the universal beauty of the human spirit. We all tend to behave in ugly ways when we are in conflict, hiding our essential beauty and interconnectedness. When we notice these qualities, our conflicts tend to diminish.
4. Conflict is often a lack of acceptance of ourselves that we have projected onto others, a way of blaming others for what we perceive as failures in our own lives, or of diverting attention from our mistakes. As we accept ourselves more fully, we become more accepting of others.
5. Conflict represents a boundary violation, a failure to value or recognize our own integrity, or the personal space of others. As we recognize and respect each other's boundaries, we experience fewer conflicts.
6. Conflict reflects a need to support or maintain a false image of who we are, or hide behind a role or mask that does not reflect our authentic feelings. If we try to appear strong or decisive but actually feel weak or confused, we may escalate our conflicts through not being authentic.
7. Conflict is a way of getting attention, acknowledgment, sympathy or support by casting ourselves as the victim of some evildoer. If we give others the attention, acknowledgment, sympathy and support they need, they create fewer conflicts as a result.
8. Conflict represents a lack of skill or experience at being able to handle a certain kind of behavior. As we become more skillful at handling difficult behaviors, we cease being drawn into conflict with them.
9. Conflict is often simply the continued pursuit of our own false expectations, the desire to hold on to our unrealistic fantasies. When we give up our false expectations of others, we surrender the conflicts we create as a result of trying to get them to become the people they never were.
10. Conflict represents a lack of listening, a failure to appreciate the subtlety in what someone else is saying . As we listen closely to the metaphors and hidden meanings of our conflicts, we discover what they are actually about, and feel less like counter-attacking or defending ourselves, and more like responding constructively.
11. Conflict is often a result of what we have not communicated, of secrets, concealments, confusions, conflicting messages and cover-ups. Conflict hides in the shadows. When we throw a light on it, it disappears.

12. Conflict represents a lack of skill, effectiveness or clarity in saying what we feel, think or want. When we are able to tell others clearly and skillfully what we need, we are often able to get our needs met without creating conflicts.
13. Conflict is a way of opposing someone who represents a parent with whom we have not yet resolved our relationships. If we recognize that the other person resembles or is behaving like someone from our family of origin, we may understand that it is not them we are really angry with, but the family member they represent.
14. Conflict is the sound made by the cracks in a system, the manifestation of contradictory forces coexisting in a single space. Many interpersonal conflicts represent the points of weakness in an organizational or family system. When these weaknesses are addressed, the conflicts they create usually disappear with them.
15. Conflict is the voice of a new paradigm, a call for change in a system that has outlived its usefulness. Changes always announce themselves in the form of conflict, including increased interpersonal conflict, and the introduction of needed changes often reduces the level of conflict in an organizational or family system.
16. Conflict represents an inability to grieve or say good-bye, a refusal to let go of something that is dead or dying. Many divorcing couples and surviving relatives fight as a way of saying goodbye to each other, or as a way of mourning someone they loved.
17. Conflict is a way of being negatively intimate when positive intimacy becomes impossible. We all prefer anger to indifference until we are genuinely ready for a relationship to be over.
18. Conflict is an argument in favor of *half* of a paradox, enigma, duality, polarity or contradiction. In an earthquake, which plate of the earth's crust is right? Which is better, hot or cold? Which is at fault, the lion or the lamb? Similar conflicts divide people who are happy from those who are sad, people who are aggressive from those who are passive, people who are risky from those who are careful.
19. Conflict is often a fearful interpretation of difference, diversity and opposition, which ignores their essential role in creating unity, balance and symbiosis. As we learn to see our differences and disagreements as sources of unity or strength, our conflicts tend to disappear.
20. Conflict is a result of our inability to learn from our past mistakes, our failure to learn from them, and recognize them as opportunities for growth, learning and improved understanding, or as requests for authenticity, emotional honesty, acknowledgment, intimacy, empathy, and communication from others -- in other words, as flowing from the desire for a better relationship.

## 10 REASONS WE GET STUCK IN CONFLICT

There are undoubtedly thousands of reasons we become stuck in impasse and unable to end our conflicts. Here are my top ten, to which you can add your own:

First, *conflict defines us and gives our lives meaning*. Having an enemy is a quick, easy source of identity, because we are whatever they are not. By defining our opponents as evil, we implicitly define ourselves as good. Our opponents' apparently demonic behaviors allow us to appear -- if not angelic by comparison -- at least poor, innocent victims who are entitled to sympathy and support. Yet identifying ourselves as victims leaves us feeling powerless to resolve our disputes and encourages us to spiral downward into an abyss of fear, pain, anger, and self-righteousness from which it becomes more and more difficult to escape. It makes our opponents seem worse and ourselves better than we actually are. It causes us to lose perspective, resist learning, and hold onto unrealistic expectations.

Second, *conflict gives us energy*, even if it is only the energy of anger, fear, pain, jealousy, guilt, grief, and shame. We can become addicted to the adrenaline rush, the flash-point intensity, and *intimacy* of combat. Yet this energy is ultimately debilitating, providing a quick stimulus that dies just as quickly, in place of the healthier, longer-lasting energy that comes from compassion, collaboration, and honest, empathetic communication. This negative energy keeps us stuck and deepens our suffering, causing us to pay a steep physical, intellectual, emotional, and spiritual price in deteriorated health, peace of mind, anxiety, and unhappiness.

Third, *conflict ennobles our misery* and makes it appear that we have suffered for a worthwhile cause. Without conflict, we may feel we suffered in vain, and be forced to critique our choices and regret the wasted lives we've led. Yet the effort to assign higher meaning to our suffering encourages us to justify its' continuation, or deceive ourselves into thinking our own abusive behaviors serve some higher purpose. It causes us to get angry at people who suggest alternatives, and encourages us to hold on to our suffering rather than learn from it, let it go, and move on to more collaborative, less hostile relationships.

Fourth, *conflict safeguards our personal space* and encourages others to recognize our needs and respect our privacy. For many of us, conflict seems the only way of effectively declaring our rights, securing the respect of others, restoring our inner balance, and protecting ourselves from boundary violations. Yet conflict also creates false boundaries, keeps out those we want to let in and lets in those we don't, substitutes declarations of rights for satisfaction of interests, secures respect based on fear rather than personal regard, and creates justifications for counter-attack and continued abuse. It erects walls that separate and isolate us from each other and prevent us from collaboratively negotiating the use of common space, being authentic, or finding out who we, or they, actually are.

Fifth, *conflict creates intimacy*, even if it is only the transient, *negative* intimacy of fear, rage, attachment, and loss. Every two-year old knows it is better to be noticed for doing something wrong than not to be noticed at all. Yet negative intimacy is ultimately unsatisfactory because it prevents us from finding positive intimacy in its stead. Many relationships are sustained by invalidating, insulting, conflict-laden communications that simultaneously bring us together and keep us apart, frustrate our

efforts to get closer and undermine the lasting intimacy we really want based on positive regard, mutual affection, trust, and shared vulnerability.

Sixth, *conflict camouflages our weaknesses* and diverts attention from sensitive subjects we would rather avoid discussing. It is a smokescreen, a way of passing the buck, blaming others, and distracting attention from our mistakes. Yet doing so cheats us out of opportunities to learn from our mistakes, makes us defensive, diminishes our integrity, and reduces our capacity for authentic, responsible relationships. It impedes our willingness to address real issues, and diverts our awareness from sensitive subjects, falsely magnifying their importance and effect.

Seventh, *conflict powerfully communicates what we honestly feel*, allowing us to vent and unload our emotions onto others. Many of us assuage our pain by externalizing it and passing it to others. While venting allows us to reduce our own emotional suffering, it increases stress in others, fails to communicate our respect or regard for them, and does not encourage us to take responsibility for our choices or address what got us upset in the first place. Venting communicates disrespect, encourages defensiveness and counterattack, escalates underlying conflicts, and does not accurately express what we are capable of when we are with someone who is genuinely listening and caring.

Eighth, *conflict gets results*. It forces others to heed us, especially faceless bureaucrats, clerks, and “service representatives,” who only seem to respond to our requests or do what we want when we yell at them. But yelling turns *us* into angry, insensitive, aggravated people and adds unnecessary stress to the lives of unhappy, alienated, powerless, poorly paid employees who are compelled to pointlessly accept our wrath. It turns us into “bullies,” and gets us less in the long run than we could by politely requesting their assistance and eliciting their desire to be helpful. It discourages us from being genuine and open, and produces outcomes that undermine what we really want.

Ninth, *conflict makes us feel righteous* by encouraging us to believe we are opposing evil behaviors and rewarding those that are good. Our opponents’ pernicious actions justify us in giving them what they “rightly deserve.” Yet righteousness is easily transformed into self-righteousness, and good and evil are far more complex, subtle, and nuanced than we are prepared to admit. Engaging in conflict reduces our capacity for empathy and compassion, and allows us to cross the line from punishing evil to committing it ourselves. It makes us haughty, judgmental, and superior, and less able to be humble, accepting, and egalitarian in our relationships.

Tenth, *conflict prompts change*, which feels better than impasse and stagnation. Many changes only take place as a result of conflict – not because it is actually necessary to achieve a given result, but because people’s fear and resistance make it so. Yet conflict also prompts resistance to change, which can be more successfully overcome through inclusion, collaborative dialogue, and interest-based negotiations. Adversarial conflict stimulates a backlash dedicated to minimizing its gains and polarizing those who might otherwise become its supporters. Worse, as a means, it undermines the ends to which it is dedicated. While the deepest and most consequential changes actually *require* conflict, understanding this requirement allows us to design strategies to transform destructive criticisms into constructive suggestions for improvement and increase our skills and effectiveness as change agents.



## COMMON SOURCES OF CONFLICT

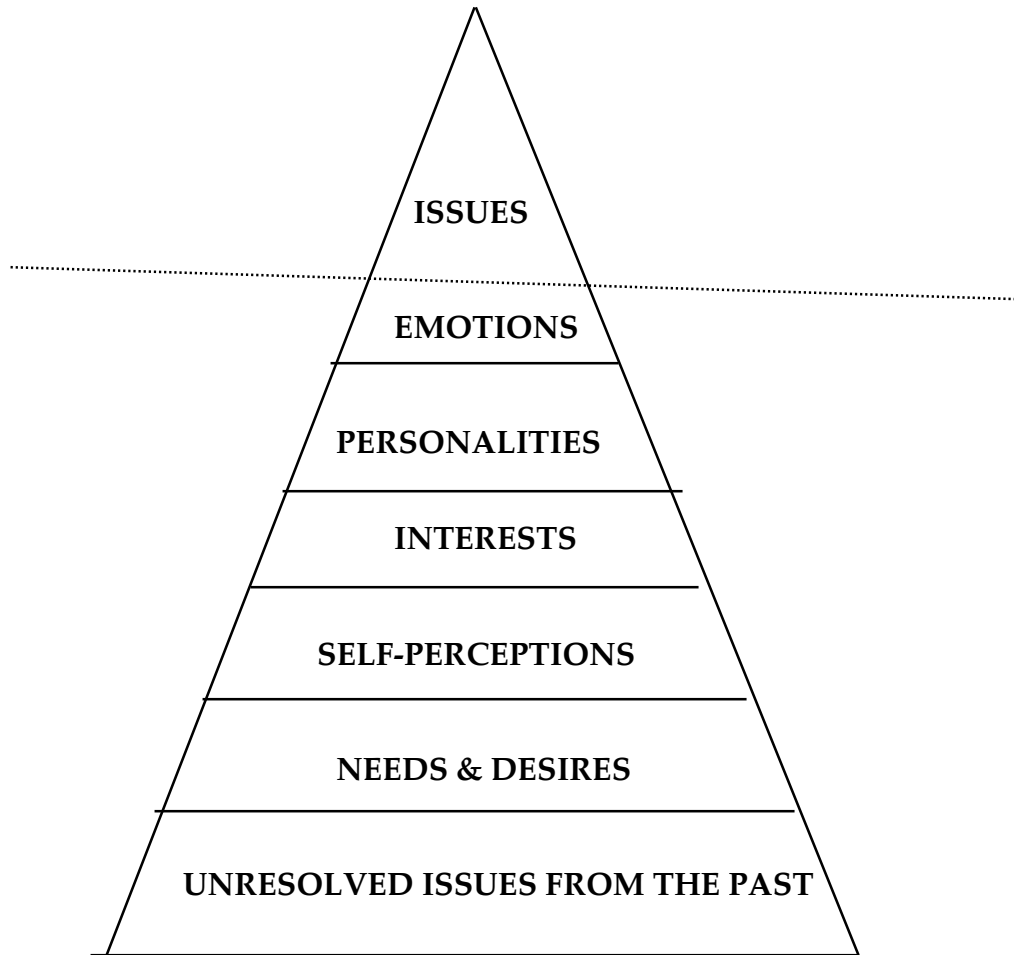
- Unreal or unmet expectations
- Incomplete grieving
- Lack of honesty
- Demonizing stories and stereotypes
- Addiction to negative intimacy
- Comparisons with others
- Inability to feel empathy
- Loss of vision, goals or purpose
- Divided leadership
- Adherence to a single truth
- Unacknowledged pain or fear
- Wounded self-esteem
- Boundary violations or confusions
- Incomplete or unskillful communication
- Hidden agendas and unresolved family conflicts
- Hierarchical or undemocratic decision making
- Lack of clarity about roles and responsibilities
- Contradictory self-interests
- Competition for scarce resources
- Fear or anxiety about change
- Externalization of internal conflicts

## SEVEN PARADOXES IN CONFLICT

1. Competition vs. Cooperation
2. Optimism vs. Realism
3. Avoidance vs. Engagement
4. Principle vs. Compromise
5. Emotions vs. Logic
6. Neutrality vs. Advocacy
7. Community vs. Autonomy

[Bernard Mayer, *The Conflict Paradox: Seven Dilemmas at the Core of Disputes*, ABA/Jossey-Bass 2015.]

## THE ICEBERG OF CONFLICT



*AWARENESS OF INTERCONNECTEDNESS*

**Bringing Oxytocin into the Room:  
Notes on the Neurophysiology of Conflict**

By Kenneth Cloke

*"We do not see things as they are. We see things as we are."*

Anais Nin

While people in conflict commonly refer to facts, behaviors, feelings, personalities, or events, for the most part we ignore the deeper reality that these are processed and regulated by the nervous system, and are therefore initiated, resolved, transformed, and transcended largely within our brains.

All conflicts are perceived by the senses, manifested through body language and kinesthetic sensations, embodied and given meaning by thoughts and ideas, steeped in intense emotions, made conscious through awareness, and may then be resolved by conversations and experiences, and develop into character, nurture a capacity for openness and trust, and contribute to learning and an ability to change.

To explain the etiology of conflict therefore requires us to gain a deeper understanding of how the brain responds to conflict. This should clearly include the ways distrusting personalities are formed, even among primates; the sources of aggressive character traits and the "fight or flight" reflex; the wellsprings of spiritual malaise and hostile gut reactions; and the neurological foundations of forgiveness, open-heartedness, empathy, insight, intuition, learning, wisdom, and willingness to change.

While conflict and resolution have yet to be reduced to a simple set of deterministic biochemical events taking place exclusively within the brain, research clearly demonstrates that basic neurological processes provide all of us with alternative sets of instructions that lead either toward impasse or resolution, stasis or transformation, isolation or collaboration. For these reasons, it will serve us well as mediators to understand more about the neurophysiology of conflict.

We have yet to examine communication and conflict resolution very deeply from the perspective of neurophysiology, though we know that the presence of an empathetic listener, particularly one who is skilled in mediation, can by itself create a significant shift in conflict dynamics, and alter, at a subtle level of awareness, the *attitudes* of parties in conflict. But why is this so, and what does it imply for conflict resolution?

For millennia, our greatest sages – particularly those from the East, including Lao Tse, Confucius, and Buddha - have sought to convince us that the universe consists of opposites that, at the deepest level, merge into a single, unified whole. Yet it has taken until the 20<sup>th</sup> century and the discovery of quantum mechanics – initially by Planck and Einstein, then by Bohr and Heisenberg – to establish *scientifically* that observers and the things they observe are part of a single interconnected system, and reveal how and why the act of observation, at a subtle level, directly influences the object or process being observed.

For all our immense progress in recent years in understanding conflict and discovering techniques that encourage resolution, until recently we have paid little attention to the physiology and internal operations of the brain, and the ways it perceives and responds to the complex, ever-changing experience of conflict.

I am not a trained neurophysiologist, but an avid lay reader, and have learned an immense amount of useful information regarding conflict resolution from reading scientific studies of the brain and how it functions. What follows is a brief synopsis of some of the more interesting and important ideas and news items I have read describing recent research and experiments in neurophysiology as they pertain to conflict and the mediation process.

### **What is the Brain?**

Most conflicts are triggered by external experiences and information regarding them is conveyed to us by sensory inputs that have been gathered from our environment. Our conflicts therefore *seem* to us to take place externally, yet everything we understand about the *meaning* of what happened, and all of our responses to the actions of others are initiated and coordinated internally by our brains.

What, then, is the brain, how is it structured, and how does it typically respond to conflict? First, the brain has been analogized to a massively powerful parallel processing computer, more powerful than anything we have been able to design or create. One hundred billion nerve cells make up the brain, each of which may create up to ten thousand synaptic connections, and together can form more than a million neuronal connections every second.

An average desktop computer is capable of sending 25 billion instructions per second, while a human brain can send 100 over trillion. An adult human brain, by some accounts, can make as many as 500 trillion synaptic connections per second. This, by itself, can explain what we commonly refer to as intuition, which is merely what we know that we don't know that we know.

Second, the brain is divided into two halves or hemispheres that are largely separate, but connected at the base by a corpus collosum. Each hemisphere processes information regarding conflict somewhat differently: one side functions linearly and considers problems individually and in detail, while the other side works more holistically and considers problems collectively and as a whole. One side favors logical reasoning while the other side favors pattern perception; one works by linear thinking while the other practices emotional responsiveness. The right hemisphere, for example, has been shown to be more adept at discriminating between emotional expressions and processing negative emotions, while the left is demonstrably less so, and more involved in processing positive emotions.

Third, the brain is organized into regions, each of which processes different aspects of the information it receives related to conflict in specialized ways. For example, the ventral tegmental area reinforces the reward circuit; the prefrontal cortex allows for objectivity and logic; the nucleus accumbens, which is directly beneath the frontal cortex and is involved in the release of oxytocin, which is described in greater detail below; the hypothalamus produces testosterone; and, most importantly, the amygdala, an almond-shaped region near the brain stem, regulates immediate responses to conflict and change, especially anger and fear.

### **Neurotransmitters and Conflict**

The brain is awash in chemicals, including hormones and neurotransmitters that accentuate or dampen its responses and influence its organization and operations. Neurotransmitters are chemicals that relay, amplify, or modulate signals that are sent between neurons and other cells. There are many different hormones and

neurotransmitters, of which the most important are glutamate and GABA, which excite and modify synapses. With regard to conflict, the following compounds seem to be most active:

- Adrenalin, which triggers the fight or flight response
- Testosterone, which stimulates aggression
- Oxytocin which instills trust, increases loyalty, and promotes the “tend and befriend” response
- Estrogen, which triggers the release of oxytocin
- Endorphins, which reinforce collaborative experiences with pleasure
- Dopamine, which generates a reward response and fortifies addiction
- Serotonin, which regulates moods
- Phenylethylamine, which induces excitement and anticipation
- Vasopressin, which encourages bonding in males in a variety of species

Many vertebrate brain structures involved in the control of aggression are richly supplied with receptors that bind with hormones produced in the endocrine system, in particular with steroidal hormones produced in the gonads. In a wide range of vertebrate species, there is a strong relationship between male aggressiveness and circulating levels of androgens such as testosterone, a hormone produced in the testes.

These aggressive behavioral patterns and the modulation of an animal's tendency to fight or flee are controlled by a hierarchical system of neural structures. Many of these are found in the limbic system; a part of the forebrain that is involved in emotionally based behavior and motivation. These neural structures interact with biochemicals that are produced inside and outside the nervous system.

For example, it has been shown that serotonin injections cause lobsters and other animals to take a dominant or aggressive posture, while octopamine injections induce submissive postures, which favor cooperation. When serotonin levels are increased in subordinate animals, their willingness to fight also increases, and declines as they are reduced.

From fish to mammals, aggression levels have been shown to rise and fall with natural fluctuations in testosterone levels. Castration has been found to reduce aggression dramatically, while the experimental reinstatement of testosterone by injection restores aggression. Circulating testosterone also influences the responses and signals that are used during mating and fighting in many species. In stags, the neck muscles needed for roaring enlarge under the influence of testosterone, while in male mice, the scent of another male's urine, which contains the breakdown products of testosterone, elicits intense aggressive responses.

In pregnant female mice, the scent of urine from a male that is ill can even induce the formation of antibodies in their embryos, and the presence of stress chemicals that are increased by fighting and are detected by females who are able to detect the smell of male urine can produce personality and behavioral changes in unborn offspring.

The experience of fighting has been shown to have a significant impact on brain biochemistry and therefore on brain structure, especially in the limbic system which is strongly associated with conflict. For example, among rainbow trout and lizards, dominant animals show significant transient activation of their brains' serotonin

systems, whereas subordinate animals display a longer-term elevation of these systems.

Researchers have shown in several vertebrate species that electrical stimulation of the midbrain and hindbrain elicits stereotyped, yet undirected aggressive behaviors, while stimulation of the hypothalamus and a nearby pre-optic region in the forebrain elicits well-coordinated attacks on other members of the same species. Lesions in these areas have also been shown to reduce aggression.

The hypothalamus and pre-optic area of the forebrain are also involved in the generation of coordinated aggressive behaviors that are produced in lower brain regions. This activity is modulated by the brain's higher centers, including areas of the limbic system – in particular the septum, which lies above the hypothalamus and has an inhibitory effect on aggression, while the amygdala located deep in the temporal lobes has the opposite effect.

In a series of experiments, dogs and monkeys have been shown to respond negatively to favoritism and unfairness in experiments where certain animals have been given rewards without having performed, causing others to punish them or refuse to cooperate with researchers.

The lateral habenula has been shown to react strongly when expected rewards are denied or replaced by mild punishments. Dopamine neurons are inhibited by the habenula, and since dopamine contributes to learning by producing positive sensations in response to success, researchers now think the habenula may also contribute to learning by shutting off dopamine in response to disappointment, representing an internal form of the carrot and the stick. Some research suggests that the habenula is implicated in depression. It has also been shown that the orbitofrontal cortex (OFC), located at the front of the brain behind the eyes, is implicated in various aspects of decision-making and choice evaluation. The anterior cingulate gyrus then reacts to mistakes and internal conflicts between intentions and outcomes, and helps us alter our behaviors in response.

Researchers have established that the negative emotions we routinely encounter in conflict are triggered in more or less the following sequence:

- Sensory information from primary receptors in the eye, nose, ear, and other organs travels along neural pathways to the limbic forebrain.
- These stimuli are evaluated for emotional significance. Research by Joseph E. LeDoux has demonstrated that auditory fear conditioning involves the transmission of sound signals through an auditory pathway to the thalamus, which relays this information to the dorsal amygdala.
- The amygdala coordinates a “relevance detection” process that is rapid, minimal, automatic, and evaluative.
- Emotions are then activated in the subcortical thalamo-amygdala pathway and relayed from the thalamus to the neocortex for cognitive appraisal and evaluation.
- In some cases, the same information is simultaneously sent to the neocortex for slower processing, creating a dual, two-circuit pathway that permits reason to override an emotional response.

### **Perception, Mirror Neurons and Suggestibility**

The brain notices changes in its immediate environment predominantly by contrast or comparison against a relatively static backdrop of familiarity, expectation, desire, fear, and habit. Observing the contrast between what is moving and what is not is the way our minds attempt to simplify and predict what is likely to happen next. At a primitive level, for example, there is an immense evolutionary advantage in being able to notice a potential threat by contrasting the mirror symmetry of a predator's face and eyes, or sudden movement against an asymmetrical, slower moving background. In a similar way, we are biased by evolution to credit threatening behaviors more than non-threatening ones.

A number of recent brain studies have revealed how perceptions and memories are profoundly distorted by emotions and by focused concentration, and how they can be reshaped by suggestion and subsequent events. Thus, areas of the brain that are linked with negative emotions and judging others are switched off, for example, when mothers look at photographs of their babies. Instead, the right prefrontal cortex lights up, not only in parents watching their children, but in lovers and Buddhist monks who have been asked to meditate on loving-kindness and compassion. In other research, memory and awareness have been shown to decline dramatically in the presence of stress chemicals that are released during periods of intense emotion.

It has also been revealed, in reverse, that the free expression through outward signs of an emotion can intensify it, while repressing or not expressing it, as far as is possible, can soften it. Thus, experiments have shown that if people are able to control their facial expressions during moments of pain, there is less arousal of the autonomic nervous system and an actual diminution of the pain experience.

In one delightful experiment, a significant percentage of people who were assigned to focus their attention on a single task, such as counting the number of individuals in a colored tee-shirt to whom a basketball was passed. When they did so, the participants completely ignored and even vigorously denied afterwards that an unusual or bizarre occurrence had occurred, in this case, the entry onto the basketball court of someone dressed in a gorilla outfit, who walked and pranced across their line of vision.

Scientists have begun to trace the development of empathy in primates, including human beings, leading to the discovery of "mirror neurons," which fire in the brains of observers watching a given action, and replicate to some extent the experience of the one being observed. Similar neurons fire when we observe someone else suffering or frightened, reproducing those experiences in the form of empathy.

In one surprising recent experiment, "phantom limb syndrome," in which a lost limb may experience itching or pain, has been shown to dramatically disappear when the subject is allowed to observe a false image of the lost limb by means of a mirror, thereby tricking the brain's mirror neurons into thinking that the lost arm or leg had reappeared.

Several studies have shown that the brain is highly responsive to suggestion. In a series of remarkable experiments it has been shown that the performance of simple, seemingly unrelated tasks can be increased or decreased merely by placing a briefcase or sports equipment nearby, triggering unconscious associations with work or play.

In an interesting study, subjects were made happy or angry, then shown happy and angry faces and friendly and hostile interpersonal scenes in a stereoscope. Happy

subjects perceived more happy faces and friendly interpersonal scenes while angry subjects perceived more angry faces and hostile interpersonal scenes.

In addition, it has been shown that relatively small favors or bits of good luck (like finding money in a coin telephone or getting an unexpected gift) induced positive emotion in people, and that these emotions increased the subjects' inclination to sympathize or provide help.

At the same subtle level, a number of experiments have shown that behaviors can be modified simply by the introduction of background scents such as lavender, or the lemony odor of detergent, and that consumers of different products purchase different products more or less readily in the presence of certain scents.

Equally dramatically, test results can be predictably raised or lowered merely by asking people of color to identify their race beforehand, or by giving indirect racial or emotional cues, or by priming teachers falsely in advance of a test regarding the innate intelligence or stupidity of their students, producing conformance with expectations and a well-established "Pygmalion effect."

In one remarkable study, when 12- and 13-year-old African American students were asked to spend 15 minutes indicating which values, such as friendship or family, they upheld, the achievement gap between them and white students decreased by 40%. Similarly, when female college students read passages before a test arguing against gender differences in mathematical ability, their scores increased by 50%.

At a very subtle level, Yale University psychologist John Bargh found that when volunteers were "primed" with words associated with the elderly, like "wrinkle," they took significantly longer to walk down a hall than those who hadn't. And interestingly, for conflict resolvers, Alex Pentland of the MIT Media Lab found that watching body language and tone of voice for only a few minutes allowed researchers to predict with 87% accuracy the outcome of subsequent negotiations between strangers.

This suggests that the brain can be re-programmed by consciously selected practices. It has been shown, for example, that the ventromedial prefrontal cortex (which is responsible for empathy, compassion, shame, and intuitive emotional responses to moral dilemmas) can be significantly strengthened by the practice of meditation, or merely thinking compassionately for a few moments about the well being of others.

Other experiments have demonstrated that men become more loving toward their female partners as their ovulation approaches, that women prefer different forms of male attractiveness at different stages in their menstrual cycle, and that women make decisions about male attractiveness based on chemical indicators in their sweat indicating that they have immunities the women do not, as measured by genes for the major histocompatibility complex or MHC. Other studies have found that men also prefer women with dissimilar MHC genes, specifically human leukocyte antigen or HLA genes.

An important recent study from Stockholm suggests that lesbian women have more asymmetric brains, like heterosexual men, and that gay men have more symmetric brains, like heterosexual women. Moreover, in heterosexual women and gay men the amygdala connects mainly to areas of the brain that manifest fear as anxiety, whereas in heterosexual men and lesbian women it connects more strongly to areas that trigger the fight or flight reflex.



It has also been shown that sweat from women who watched violent movies was accurately rated by others as stronger, less pleasant, and smelling more “like aggression” than sweat from women who had watched a neutral movie. In a recent study, researchers from Stony Brook University in New York taped absorbent pads to the underarms of 40 volunteers who went on their first skydive. In a double blind experiment, a second group smelled sample pads from them and from non-skydivers in an fMRI scanner, and showed increased activity in their amygdala and hypothalamus while breathing sweat produced under frightening conditions, indicating that humans may in fact be able to smell fear.

### **Oxytocin and Dual Pathways in Conflict**

The physical basis for collaboration, altruism, trust, forgiveness, and interest-based conflict resolution techniques, has been clearly identified with the “tend and befriend” hormone oxytocin. Oxytocin was first synthesized by Vincent du Vigneaud in 1953, for which he received the Nobel Prize for Chemistry in 1955. It is secreted by the posterior lobe of the pituitary gland and can be made synthetically. Physiologically, it promotes the secretion of breast milk and stimulates the contraction of the uterus during labor. It cannot be ingested orally, but can be administered intravenously, sublingually, or by nasal spray, although its strongest effects last only for a few minutes.

Oxytocin is widely believed responsible for prompting empathy, compassion, trust, generosity, altruism, parent-child bonding, and monogamy in many species, including human beings. Oxytocin has been dubbed the “bonding” hormone, primarily as a result of research involving voles. Prairie voles in the U.S. are largely monogamous and the males provide care for the young. Montane voles, on the other hand, are polygamous and the males are less caring of their young. Experiments have deprived prairie voles of oxytocin and provided it to montane voles, causing a dramatic reversal of these behaviors.

In one extraordinary study, participants were given a small amount of pretend money and encouraged to invest it with a stranger. On average, they initially invested only a quarter to a third of the money they possessed. But after four sniffs of the neurotransmitter oxytocin, their trust levels skyrocketed, and without hesitation they became willing to invest 80% more. Here is a summary from the original study:

“Human beings routinely help strangers at costs to themselves. Sometimes the help offered is generous—offering more than the other expects. The proximate mechanisms supporting generosity are not well understood, but several lines of research suggest a role for empathy. In this study, participants were infused with 40 IU oxytocin (OT) or placebo and engaged in a blinded, one-shot decision on how to split a sum of money with a stranger that could be rejected. Those on OT were 80% more generous than those given a placebo. OT had no effect on a unilateral monetary transfer task dissociating generosity from altruism. OT and altruism together predicted almost half the interpersonal variation in generosity. Notably, OT had twofold larger impact on generosity compared to altruism. This indicates that generosity is associated with both altruism as well as an emotional identification with another person.”

[Zak PJ, Stanton AA, Ahmadi S (2007) Oxytocin Increases Generosity in Humans. PLoS ONE 2(11): e1128. doi:10.1371/journal.pone.0001128]

Several experiments have shown that positive emotion facilitates creative problem solving. One study, for example, showed that positive emotion enabled subjects to name more uses for common objects. Another showed that positive emotion enhanced creative problem solving by enabling subjects to see relations among objects that would otherwise have gone unnoticed. A number of studies have demonstrated the beneficial effects of positive emotion on thinking, memory, and action in preschool and older children.

A recent study by a group in Zurich, Switzerland showed that oxytocin improves recognition and memory of previously presented faces, which were more correctly assessed as being "known," but the ability to recollect faces that had not been seen before was unchanged, and there was no difference when recalling images of houses, landscapes or sculptures. The researchers argue that "this pattern speaks for an immediate and selective effect of the peptide [oxytocin in] strengthening neuronal systems of social memory."

There is a considerable body of research that has linked oxytocin with collaboration and creative problem solving, and these with the release of endorphins, the brain's version of morphine. Creative problem solving has also been shown to increase with diversity, and a mathematical proof has been offered purporting to demonstrate that more diverse groups predictably experience greater creativity, success in problem solving, and satisfaction as a result.

Thus, the brain possesses not one, but *two* systems for responding to conflict, and is capable both of adrenalin-based "fight or flight" responses, and of oxytocin-based "tend and befriend" ones. Just as, in biology, there are evolutionary advantages to aggression and "selfish genes," there are also advantages to collaboration and altruistic efforts that aid others.

There are two bundles of nerves, for example, that connect the eye and other sensory organs with the brain. One travels directly to the amygdala where fight or flight responses are initiated, while the other proceeds to the neocortex where logical explanations can be discovered, allowing us to override costly adrenalin-based responses.

As we learn, develop language, mature, and accumulate long-term memories and experiences, these dual pathways to the amygdala and the neocortex become more developed and integrated, and we become able to process events in either or both pathways at the same time.

This duality allows the amygdala pathway to specialize in processing information that may require a rapid response, while the neocortex pathway specializes in evaluating information that may be important in forming cognitive judgments or developing complex coping strategies. Duality also allows us to by-pass the amygdala's initiation of the fight or flight response and consciously choose the less aggressive option of tend and befriend.

Moreover, the brain not only dictates how we respond to changes in our environment, it is actually *shaped* and molded by those changes. The brain requires sensory stimulation in order to develop, and repeated stimulation creates physical connections between neurons that strengthen the pathways and networks responsible for thoughts, feelings, and behaviors.

These stimulations have been shown to produce profound attitudinal changes. Indeed, several experiments have demonstrated that countless previous experiments on laboratory mice and rats over the course of decades have been profoundly influenced by whether the animals were raised in rich or impoverished environments.

The environment in which a young animal is raised also has a profound effect on whether and how it fights as an adult. These environmental factors are not always directly related to social experience. For example, mice that are deprived of food during their early development become particularly aggressive as adults. On the other hand, environmental effects on the development of aggression may depend on social interactions in contexts other than fighting; for instance, mouse pups that have been roughly handled by their mothers are more aggressive as adults. Similar results have been found in a range of species that have been reared in social isolation.

More surprisingly, physical tests have revealed that babies are able to rewire their mothers' brains *in utero*, and that some of the genetic material and cells of each remain in the other and may influence a variety of behaviors, including a tendency to aggression or collaboration.

### **Is Aggression Inevitable?**

Clearly, aggression and war are “hard-wired” into the brain, but so are empathy and collaboration. Recent research has emphasized the cooperative aspects of warlike behavior, which forms a core element not only in gangs, but sports teams, organizations and nation states, which use internal cooperation as an aid to external competition. Indeed, modern warfare can be seen as requiring a high level of internal collaborative activity.

Yet it has also been shown, for example by researchers at the University of Edinburgh, that men in war simulations tend to overestimate their chances of winning, making them more likely to attack and behave aggressively, and leading to unnecessary losses that a more sober calculation might predict.

It has recently been argued by evolutionary biologists at the University of New Mexico, based on data from 125 civil wars, that cultures become more insular and xenophobic when diseases and parasites are common, perhaps in an effort to drive away strangers who may carry new diseases. By contrast, cultures with a low risk of disease are more open to outsiders. They argue that when the risk of infectious diseases fell in Western nations following World War II due to antibiotics and sanitation, these societies became less hostile and xenophobic.

In one interesting experiment, cricket players on the Caribbean island of Dominica experienced a surge in testosterone and aggressive behavior after winning against another village, but did not experience the same surge when winning against a team from their own village. Similarly, it has been shown that an increase in testosterone typically experienced by men in the presence of a potential mate is muted if she is in a relationship with a relative or friend.

This suggests again that building empathy and “identification with the enemy” will prove useful as techniques for countering aggressive behavior. There is also research suggesting that whereas women may be better at brokering harmony within groups, men may be better at making peace between groups. These techniques suggest that it may be possible to identify more precisely which approach will work best in a given setting to reduce warfare and aggression.

## Implications for Conflict Resolution

These are just a few of the more dramatic conclusions that have emerged from countless studies and experiments, from which I have culled those that seemed most interesting and significant based on my experience as a mediator. What, then, does all this research suggest for conflict resolution?

In the first place, it reinforces the idea of brain “plasticity,” indicating that the brain is not fixed but evolving, learning, and producing new synapses all the time, even among those who were previously considered elderly and incapable of doing so. Among other things, this gives us hope, and explains why it is possible for people to switch suddenly from aggression to collaboration.

Second, it suggests that a variety of techniques might be useful in reducing adrenalin, increasing oxytocin, and stimulating collaboration and trust. One clear example is research that involves what we call “mirroring,” but in scientific literature is called mimicry, and sometimes included under the heading of persuasion. It has been demonstrated, for example, in human subjects, that mirroring body language after a two second delay (so it is not recognized as mimicry by the subject) improves the outcomes of negotiations and encourages collaborative behavior.

In reading each of these studies and experiments, we can imagine a number of subtle ways we might go about encouraging a shift in the attitudes of disputants toward problem solving and collaboration. For example, it is clear by hindsight that a number of very common simple techniques, such as welcoming, introductions, reaching agreement on ground rules, caucusing, summarizing, and securing small agreements, will predictably reduce the release of adrenalin and stimulate the release of oxytocin. This may cause us to wonder: what deeper results might we achieve by better understanding how the brain processes and overcomes the fight or flight response?

Even basic information about neurophysiology can lead us to technique, for example, by allowing mediators to work directly with different hemispheres of the brains of conflicted parties, not only presenting information in ways that are more accessible to one hemisphere or the other, but by focusing attention, for example, on the eye that feeds information to a particular hemisphere that may be more receptive to it.

Other quite subtle techniques might also have an impact on the brain chemistry of conflict, including the introduction of scents that remind people less of fear than of social connection, serving chocolate to stimulate the production of dopamine, placing objects that encourage positive emotions inside the mediation room, asking questions about values to orient people to their highest standards, using body language to trigger mirror neurons, or offering positive acknowledgments regarding something each party did or said. Here are some simple additional things mediators might do, based on brain research, to encourage parties to reach an agreement:

- Create an environment with objects that “prime” or encourage collaboration and dialogue. Use soft chairs, serve hot drinks or food, and create a welcoming atmosphere.
- Slow, soften and relax your tone of voice, and create a context of acknowledgement and appreciation. Thank them for coming.
- Listen closely to the words they use and search for ways of reframing them from negative to positive. Ask them, for example, what words they would use to describe the kind of conversation they want to have, or

what they most want to say to each other, or hear the other person say in response.

- Use words repeatedly that emphasize the outcomes you want to achieve, like “fair” or “satisfying” or “creative.” Try to avoid words like “tough” or “win” or “dissatisfied” or “hard.”
- Speak to both hemispheres of the brain, and help translate between them. When a “left brain” point is made, see if you can translate it into “right brain” language.
- Look directly into the eye that can access information located in a particular hemisphere of the brain.
- Meditate regularly to build empathy and emotional balance.
- Avoid pictures or objects that denote fighting, imbalance, hardness, roughness, coldness. Favor items that connote balance, cooperation, unison of movement or rhythm, warmth, softness. Keep the temperature on the warm side.
- Bring emotional processing directly into the conversation by asking “How does that feel to you?” “Why is that important to you?” or “What does that mean to you?”
- Make unilateral, unexpected concessions yourself and ask the parties to do the same, for example by asking, “What would you be willing to offer, in a spirit of collaboration, without any expectation of return?”
- Be “environmentally” generous, in attitude and demeanor.
- Seek ways of unifying both sides against the problem and its causes. Remind them of what they have in common.
- Find ways of encouraging them to act jointly, as in solving a common problem. Help them to act in synchrony.

None of this is meant to suggest that oxytocin should be administered in large and continuous doses to parties in mediation, or that we should slip into clever, yet inevitably crass forms of physical manipulation. Rather, it is to say that we have been working with brain chemicals unconsciously for years, and it is now possible for us to begin thinking about conflict resolution more scientifically and using the information we gather to encourage more positive responses, being careful to build transparency, empowerment, and authenticity into the process.

## **Conclusion**

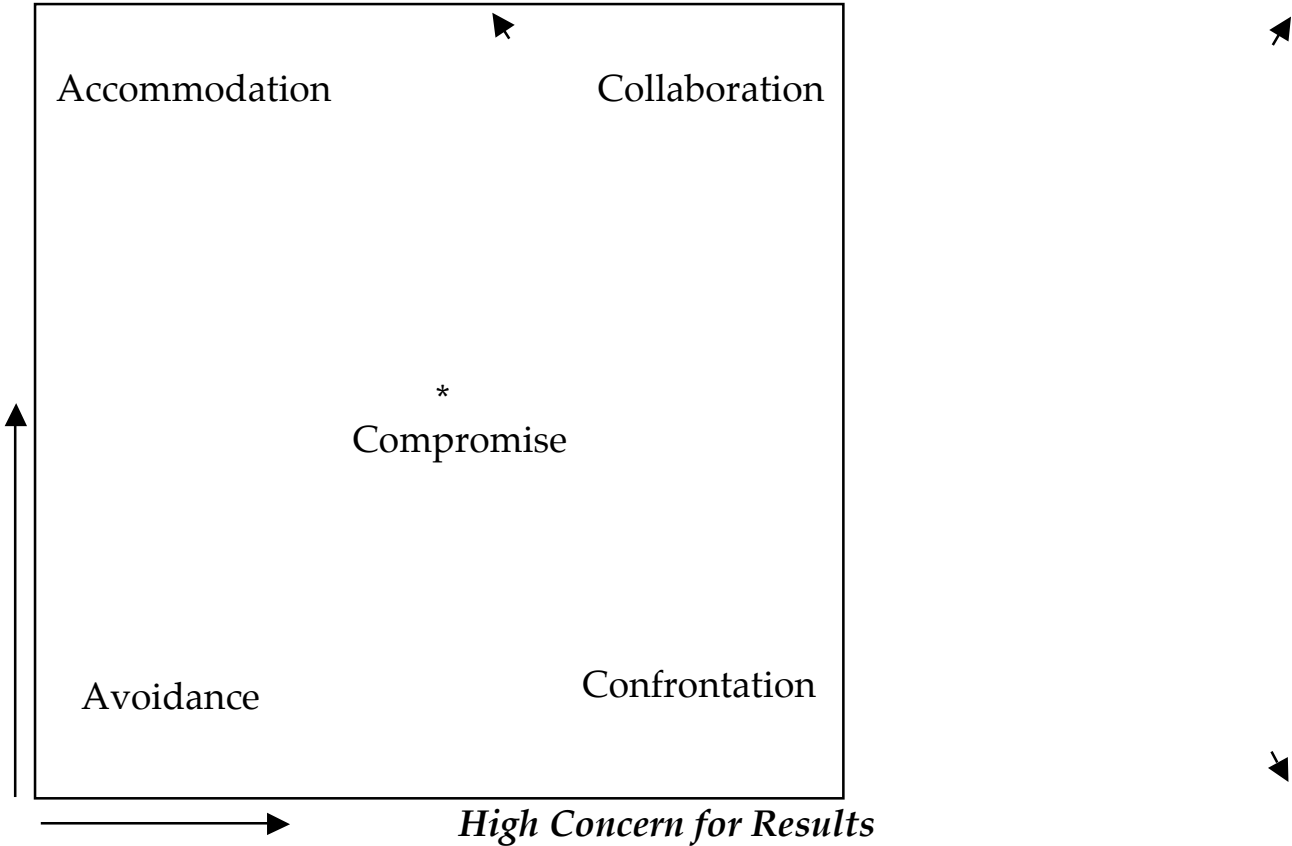
Perhaps the most extraordinary thing about the human brain is its capacity to understand and alter the world, starting with itself. We have begun a period of rapid, perhaps exponential increase in understanding how the brain operates, and a growing ability to translate that knowledge into practical techniques. But without an equally rapid, equally exponential increase in our ability to use that knowledge openly, ethically, and constructively, and turn it into successful conflict resolution experiences, our species may not be able to collaborate in solving its most urgent problems, or indeed, survive them.

All of the most significant problems we face, from war and nuclear proliferation to terrorism, greed, and environmental devastation, can arguably be traced to our brain’s automatic responses to conflict. Out of the last few years of neurophysiological research has emerged a new hope that solutions may indeed be found to the chemical and biological sources of aggression. These solutions require not only a profound

understanding of how the brain works, but a global shift in our attitude toward conflict, an expanding set of scientifically and artistically informed techniques, a humanistic and democratic prioritization of ethics and values, and a willingness to start with ourselves.

CONFLICT RESOLUTION STRATEGIES CHART

*High Concern for People*



## COMMON CONFLICT RESOLUTION STRATEGIES

A wide variety of conflict resolution strategies may be used depending on one's goals and the nature of the conflict. The most common are these:

**1. Avoidance:**

- When an issue seems trivial.
- When one has no power or can't change.
- Where damage due to conflict outweighs its benefits.
- In order to cool down, reduce tensions or regain composure.
- When the need to gather information outweighs the need to make an immediate decision.
- When others can resolve the conflict more effectively.
- When the issue is tangential or symptomatic.

**2. Aggression:**

- To achieve quick decisive action.
- In an emergency.
- To enforce unpopular rules or discipline.
- When the issues are vital and one knows one is right.
- To protect one's self against people who take advantage of non-competitive behavior.

**3. Accommodating:**

- When one is wrong, or to show one is reasonable.
- When the issue is more important to others, in order to establish good will.
- To build up credits.
- When one is outmatched or losing.
- To preserve harmony or avoid disruption.
- To help subordinates develop by letting them learn from their mistakes.

**4. Compromising:**

- When goals are moderately important.
- When opponents with equal power are strongly committed to mutually exclusive goals.
- To achieve a temporary settlement of complex issues.
- To arrive at expedient solutions under time pressure.
- As a backup when competition or collaboration fails.

**5. Collaborating:**

- To find an integrative solution when both sides find it hard to compromise.
- When the objective is to learn.
- To merge insights from different perspectives.
- When long-range solutions are required.
- To gain commitment by consensual decision-making.
- To empower one or both participants.
- To work through hard feelings.
- To model cooperative solutions for subordinates.
- To solve problems between people who work closely together.
- To end the conflict rather than paper it over.
- To improve morale.

- To increase motivation and productivity.
- When a team effort is required.
- When creative solutions are needed.
- When all other methods fail.

[Source: Thomas-Kilman Chart]

### SIX ORDERS OF CONFLICT RESOLUTION

Multiple outcomes other than impasse are possible in any conflict, with each order of resolution corresponding to a higher level of conflict. In my experience, there are six fundamental orders of resolution, or seven if we include impasse:

- We can *stop the fighting* and de-escalate the confrontation. This is useful and important, and nearly everyone understands the basic skills and techniques needed to be successful, which include separating people, speaking to them calmly, and listening empathetically to their stories.
- We can *settle the issues* over which we disagree and end the dispute. This requires us to discuss the issues and negotiate a compromise, and most of us understand the basic techniques needed to be successful, which include setting ground rules, listening to positions, identifying issues, articulating reasons for settlement, caucusing with each side, and negotiating compromises.
- We can *resolve the underlying reasons* that gave rise to the dispute and will continue to generate new disputes until they are resolved. This *transforms* the conflict by moving conversations inward toward its center and unlocking it. Few mediators have been adequately trained in these techniques, although we can intuit and learn them as we go, albeit at different rates and levels depending on our issues, characters, and skills.
- We can *forgive* our opponents, and finally ourselves. Forgiveness consists of releasing ourselves from the burden of our own false expectations, or as Annie Dillard wrote, “giving up all hopes of having a better past.” Forgiveness is genuine transformation, and few mediators are skilled in methods of reaching forgiveness, especially when it comes to forgiving ourselves.
- We can *reconcile* with our opponents and renew our relationships. In reconciliation, we come full circle and our conflicts disappear. At the highest level of reconciliation, conflicts become powerful sources of learning, fresh synthesis, and higher order relationships. Mediators know least about how to achieve this last order of resolution, as it involves not only completely letting go, but learning, transcending, and evolving.
- We can *design preventative systems*, structures, and environments that make it more difficult for future conflicts to occur, manage them better, and resolve them faster, deeper, and with less effort.

Each of these orders is like the Richter scale for earthquakes, requiring *exponentially* greater skill and sensitivity than the one beneath it, along with greater integrity, commitment, and permission to proceed on the part of everyone involved. Each takes longer to achieve, goes deeper into the heart of the problem, and permits a different set of issues and resolutions to emerge. Each leaves less of the conflict remaining after it is completed.



### **SKILLS FOR CONFLICT RESOLVERS**

1. Acceptance of the conflict - without pre-conceptions, expectations, or agendas;
2. Unwillingness to unilaterally determine either process or content;
3. Willingness to collaborate in defining process and content;
4. Curiosity about the sources and unfolding of the conflict;
5. Desire for empathic understanding with both sides - especially those you are least able to understand;
6. Lack of defensiveness and ability to be non-judgmental;
7. Willingness to observe and release judgments;
8. Creative thinking, problem solving and option generating;
9. Desire to search beneath the conflict for the real people and the real problems;
10. Willingness to risk failure and deeper layers of success;
11. Ability to uncover interests and secret desires;
12. Respect for boundaries and differences, including your own;
13. Acceptance of paradox, enigma, riddle and contradiction;
14. Fearlessness in probing ambiguity;
15. Impeccable integrity
16. Openness to introspection, and ability to model self evaluation;
17. Ability to keep an empty and open mind;
18. Consistent courtesy and hospitality, regardless of allegation or behavior;
19. Sense of humor, irony and play;
20. Ability to reach completion or closure, to concretize understandings and agreements.

### **LEVELS OF CONFLICT INTERVENTION**

1. Non-Intervention -- Do Nothing
2. Low Intervention -- Off-Line Conversation
3. Medium Personal Intervention -- Off-Line Confrontation
4. High Personal Intervention -- In-Group Personal Confrontation
5. Low Organizational Intervention -- Performance Evaluation
6. Medium Organizational Intervention -- Problem Resolution Procedure
7. High Organizational Intervention -- Disciplinary Action
8. Facilitated Intervention -- Structured In-Group Communication
9. Mediated Intervention -- Structured In-Group Problem Solving
10. Prevention -- Anticipatory Intervention

## **20 STEPS IN THE MEDIATION PROCESS**

1. Welcome the Parties
2. Set the Stage
3. Introduce the Process and Yourself
4. Set the Ground Rules
5. Answer any Process Questions
6. Choose One Party to Start
7. Model Active Listening
8. Let the Other Party Speak
9. Explore Hidden Agendas/Caucus if Necessary
10. Set the Agenda/Contract to Solve the Problem
11. Identify a Problem to Start On
12. Brainstorm Options, then Select Solutions
13. Facilitate the Negotiations
14. Fine-tune Solutions
15. Resolve the Impasses
16. Establish Criteria for Success, Next Steps
17. Summarize the Agreements
18. Acknowledge Participants
19. Confirm Process, Content, and Psychological Satisfaction
20. Celebrate Successes

## **10 QUESTIONS FOR YOUNG MEDIATORS**

1. What happened?
2. How did it feel?
3. What do you want?
4. Why do you want it?
5. What are you doing in order to get it?
6. Is that working?
7. Why not?
8. What do you think you might do instead?
9. What have you learned from this experience that you want to do differently next time?
10. Is there anything else you want to say to each other before we end?

## ROLES FOR MEDIATORS

<i>Host/ess:</i>	Welcoming angry parties in an atmosphere of openness, cordiality, lightness and acceptance.
<i>Interior Designer:</i>	Creating an environment in which people can relax, face each other, maintain personal space, speak with and through the mediator, and separate if necessary.
<i>Educator:</i>	Explaining to the parties what mediation is and how it operates, and answering any questions about the process.
<i>Rule-Maker:</i>	Establishing ground rules for the mediation, including confidentiality, voluntariness and caucusing to increase the parties' willingness to address their conflict.
<i>Contractor:</i>	Asking parties to agree to these rules and to going forward with the mediation.
<i>Power Balancer:</i>	Choosing which party should go first, helping each party to participate fully in the negotiation, and overcoming perceived as well as actual imbalances of power that interfere with true consensus.
<i>Listener:</i>	Creating an opportunity for focused communication by modeling active listening techniques, preventing interruption, clarifying, summarizing, refocusing and acknowledging each party during their opening statements.
<i>Therapist:</i>	Surfacing underlying emotional concerns that prevent parties from reaching an agreement.
<i>Chair:</i>	Creating an agenda with the parties and prioritizing concerns, as an exercise in reaching agreement.
<i>Moderator:</i>	Assisting the parties in negotiating agreements by helping to structure their communication.
<i>Option Generator:</i>	Helping search for creative options for resolution that recognize both parties' self-interest.
<i>Counselor:</i>	Assisting each party, in caucus and joint sessions, to identify what is in their self-interest and separate their emotional responses from their needs.
<i>Negotiator:</i>	Helping the parties negotiate with each other, perfecting offers, reframing objections, separating people from problems and positions from interests.
<i>Resource:</i>	Providing expert opinion or access to it, helping to clarify factual disagreements, and searching for appropriate criteria to resolve them.
<i>Magician:</i>	Using creative techniques, from metaphor to homework, from brainstorming to silence, to overcome impasse.
<i>Consultant:</i>	Considering, with each party, whether the agreement represents their best alternative, and how it will fit into their future plans.

<i>Zen Master:</i>	Requiring the parties to take <u>full</u> responsibility for their agreement and for the conflict that preceded it.
<i>Lawyer:</i>	Helping the parties reduce their agreement to writing and make sure that it indicates what will happen in the event of future conflicts.
<i>Historian:</i>	Recalling the way the conflict felt before and after mediation, and helping cement the parties' determination to let it go and move closer to reconciliation.
<i>Celebrant:</i>	Congratulating the parties in their willingness to bring their dispute to mediation, on their honesty and willingness to compromise, and celebrating their agreement and future relationship.

### 10 NEW ROLES FOR ATTORNEYS AND JUDGES

1. **Consultants:** Attorneys and judges may be needed not only to engage in battle with the opposition and decide cases, but to help prevent future disputes -- not simply by drafting documents, but consulting on ways of decreasing the amount and level of conflict.
2. **Teachers:** Every conflict raises the possibility of learning from mistakes, but as long as the emphasis is on shifting blame, the real lessons of the conflict cannot be appreciated. Attorneys and judges can teach about conflict, and what might have been done better.
3. **Coaches:** As long as attorneys act as champions and advocates, or judges as deciders, it is difficult for them to also act as critical coaches. Attorneys or judges can honestly tell parties what they did wrong, or might do better next time.
4. **Informal Problem Solvers:** Rather than write vicious letters to opposing counsel or impose formal solutions, attorneys and judges can initiate informal conversations that are oriented to solving the problem, rather than fixing the blame.
5. **Ombudsmen:** Attorneys and judges can serve as advisors on institutional problems, and can help create organizational learning.
6. **Mediators:** Attorneys and judges can act as mediators in many cases, and where they can't, they can bring a degree of civility to conversations, even when there are intense disagreements.
7. **Reconcilers:** Attorneys and judges can encourage parties not only to settle their disputes, but to reach full resolution, including forgiveness and reconciliation.
8. **Conscience:** Attorneys and judges can remind parties of their own ethics, beliefs and principles, and ask them to do the right thing, even if it means taking less or surrendering poorly founded claims.
9. **Translators:** Attorneys and judges can translate what each person is saying and make sure they are understood by the other side.
10. **Collaborators:** Instead of acting adversarially and aggressively, or authoritatively and autocratically, attorneys and judges can encourage collaboration, consensus and teamwork on both sides.

**Let a Thousand Flowers Bloom: Toward a  
Holistic, Pluralistic and Eclectic Approach to Mediation**

[Original published in ACResolution, Fall 2006]

*“It is a defect in language that words suggest permanent realities and people do not see through this deception. But mere words cannot create reality. Thus people speak of a final goal and believe it is real, but it is a form of words and the goal as such is without substance. The one who realizes the emptiness of objects and concepts does not depend on words. Perfect wisdom is beyond definition, and pathlessness is the way to it.”*

**Prajnaparamita**

Partly as a result of the widespread success of mediation, and partly as a result of working in a highly competitive culture, mediators are increasingly dividing into diverse areas of practice, philosophies, orientations, styles and approaches to conflict resolution. Our ranks now include retired judges, attorneys, collaborative law practitioners, securities investors, business and commercial partners, insurance adjusters, health care providers, ombudsmen, facilitators, organizational coaches, management consultants, team builders, labor-management negotiators, human resource managers, psychotherapists, counselors, teachers and administrators, students in all grade levels, community activists, victim-offender mediators, restorative justice mediators, conciliative mediators, evaluative mediators, transformational mediators, narrative mediators, spiritually-oriented mediators, international mediators and dozens of others.

Retired judges and attorney mediators tend to view their conflict resolution experiences completely differently from therapist and community mediators. Commercial mediators see themselves as distinct from narrative and transformational mediators. Divorce mediators approach their work with a different orientation than labor-management mediators, victim-offender mediators and international mediators.

Certainly there are many points of agreement that link these different orientations. Most will agree, for example, on the usefulness of classic techniques such as setting ground rules, surfacing interests and explaining the mediation process, while implementing them in completely different ways. Most will also agree that each conflict is different; each mediator is different; each institution, organization and subject matter is different, each mediation is different, and each of these is in flux and different at every moment.

The consequence of this inevitable diversity, fluidity and impermanence in mediation should encourage us to adopt as wide a variety of styles and approaches to resolution as possible. Each style has proven remarkably successful in resolving certain kinds of disputes and no one has yet demonstrated that any single approach or style is superior to any of the others. Yet each style has tended to advance its own specialized perspectives and experiences while largely ignoring or dismissing those of others.

I propose instead that we search for the hidden unities that connect these diverse practices; adopt a holistic, pluralistic and eclectic approach to mediation styles; seek to identify what makes each one successful in different circumstances; and “let a thousand flowers bloom.” We are far too rich in hidden possibilities and the problems we address are far too layered in subtle, diverse forms of information to discourage or foreclose any potentially successful approaches.

The difficulty in doing so is that a holistic approach requires us to develop our intuition and deprives us of the comfort and safety that accompany a single style. More importantly, the deeper and more subtly we are able to describe the sources of any given conflict, the more responsive the conflict will be to minor interventions and fluctuations, especially those that are reflected in the attitude, openness, and personality of the mediator. In this sense, who we are *is* the technique, and what we search for is what we are most likely to find. Shouldn't we then search for many things instead of one? Shouldn't we become more capable and varied in using a broad range of approaches? And shouldn't we carefully examine the reasons behind our desire to adhere to a single approach, no matter how powerful or successful that approach may be?

### The Mongrel Profession

Conflict resolution has been informed in critical and important ways by a wide range of professions and disciplines, each of which we can continue to mine for deeper insights and practical techniques.

- |                                |                             |
|--------------------------------|-----------------------------|
| • Law                          | • Psychology                |
| • Labor-Management Relations   | • Collaborative Negotiation |
| • Dialogue                     | • Arbitration               |
| • Group Facilitation           | • Non-violence              |
| • Systems Theory               | • Prejudice Reduction       |
| • Learning Theory              | • Race and Gender Studies   |
| • Myth and Ritual              | • Buddhist Philosophy       |
| • Mindfulness Meditation       | • Spiritual Traditions      |
| • Communication Theory         | • Art and Aesthetics        |
| • Neurophysiology              | • Anthropology              |
| • Economics                    | • Community Organizing      |
| • Game Theory                  | • Physics and Mathematics   |
| • Coaching and Mentoring       | • Creative Problem Solving  |
| • Neuro-Linguistic Programming | • Feedback Techniques       |
| • Evaluation and Assessment    | • Quality Improvement       |
| • Management Theory            | • Organizational Culture    |
| • Team Building                | • Collaborative Processes   |
| • Sociology                    | • Political Theory          |
| • Theories of Justice          | • International Relations   |

Each of these disciplines and professions has brought rich resources to the exploration and resolution of conflict, yet none has proven capable, by itself, of constituting the sole source of resolution theory and practice. For example, we all recognize that every conflict has an emotional component. Consequently, it is nearly impossible *not* to use some emotional skills in resolving conflict, and the only real question is: how skillful can we become?

The same can be said in varying degrees for each of the other disciplines listed above. Our choice, therefore, is not *whether* to incorporate elements from these other disciplines in our practice of conflict resolution, but whether to do so *consciously*, collaboratively, proactively, strategically and in ways that acknowledge the power of their diversity and accentuate their underlying unity.

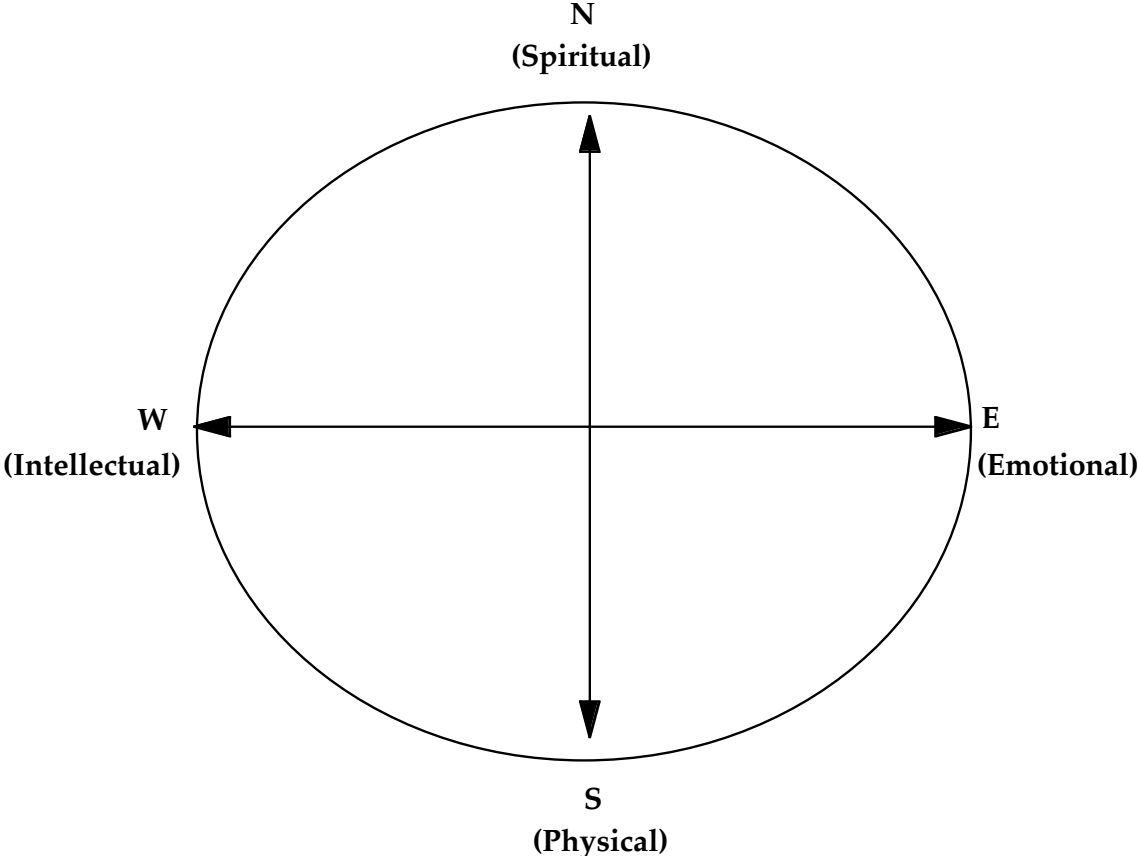
The first challenge in any new profession is to develop a diverse, complex, seemingly inconsistent array of methods, practices, models and theories so as to investigate and

crystallize every aspect of what is being learned. The second is to draw them into dialogue, so as to better synthesize, integrate and unify their disparate lessons into a single, holistic, internally consistent set of approaches, styles, theories and practices. The third is to examine how these approaches, styles, theories and practices can be broadened and linked with a set of core values and principles to provide ethical grounding and a strategic orientation for future practice. The fourth and final challenge is to leave all this behind, and as Carl Jung wrote: "Study your theory; practice your techniques inside out, and when in the presence of a living soul, respond to the soul." Our current dialogue, in my mind, reflects an effort to address the second challenge.

**Ancient Wisdom**

In Native American, First Nation, aboriginal and indigenous cultures, it is widely recognized that there are six primary orientations which correspond to six fundamental attitudes and compass directions, including one pointing inward toward the heart and one outward toward the environment. Each of these directions can also be seen as a way of approaching conflict, as reflected in the following diagram of a Native American Medicine or Spirit Wheel.

**NATIVE AMERICAN MEDICINE WHEEL**



This depiction of the locations or directions of conflict suggests the possibility of developing a diverse, yet holistic set of approaches to the resolution process that allow each location to be accessed and resolved in its own way, while recognizing the possibility of resolving all of them profoundly at a single stroke, for example, by changing people's hearts, or fundamentally redesigning the familial, social, or organizational systems that generated or aggravated the conflict.

Indigenous cultures commonly open mediations with a spiritual invocation, a deep collective silence, the passing of a peace pipe, or some comparable ritual through which those who are gathered manifest their conciliatory, collaborative, heart-based intentions at the northern end and center of the diagram, only later moving into the intellectual, emotional, and physical locations.

Many U.S. and European mediators, on the other hand, regard spiritual and heart processes as pointless, diversionary or "touchy-feely," and open instead with intellectually based introductions and agreements on ground rules at the far western end of the diagram, sometimes working with emotions or the body, but rarely engaging conflict in its internal spiritual and heart, or external systemic and environmental locations.

### **Styles and Locations of Conflict**

If every conflict exists in physical, intellectual, emotional, spiritual, heart and environmental locations, each of the principal mediation styles can be seen as calming conflict in one of these six locations, in an effort to resolve it as a whole. Thus, there is:

1. A *conciliative* style aimed chiefly at reducing the fighting that primarily uses physical calming and spatial tools such as separation, reassurance, sympathetic tone of voice and caucusing;
2. An *evaluative* or directive style aimed mainly at settlement that primarily uses intellectual and logical tools such as analysis, distinction, debate, instruction, compromise and reductionism;
3. A *facilitative* style aimed primarily at resolution that primarily uses emotional calming and affective tools such as listening, empathy, acknowledgement, summarization, reframing and dialogue;
4. A *transformative* style aimed principally at personal transformation that primarily uses emotional/relational calming and meaning-altering tools such as recognition and empowerment, along with participation, responsibility and relationship building;
5. A *spiritual, heart-based, or transcendent* style aimed at personal learning, letting go, forgiveness and reconciliation that primarily uses spiritual/heart calming tools such as centering, mindfulness, direct heart-to-heart communication, compassionate inquiry, wisdom and insight;
6. A *systems design* style aimed at preventing systemic dysfunctions that primarily uses environmental/systems thinking and design principles to change the context, culture and environment in which conflicts occur.

We can see that each of these styles or models of mediation has been successful in resolving disputes, partly because each employs a distinctive set of coherent techniques to unlock conflict in ways that are uniquely appropriate to each location on



the Medicine Wheel, or incorporates techniques that have proven successful in other locations.

In addition to these, we can identify a *holistic, pluralistic and eclectic* style that uses all these approaches more or less simultaneously, responding to each moment, person and conflict differently, moving fluidly between these styles as opportunities for resolution present themselves and searching for the hidden unities that lie between them. But holism, pluralism and eclecticism are more than simply styles, they are ways of understanding the world and solving its problems.

For example, consider how different mediators might approach a typical family dispute. A conciliative approach might start by sitting down with different family members, listening, calming them and allowing them to feel heard. An evaluative approach might focus on reaching agreements regarding the issues, such as how money is being spent. A facilitative approach might explore their relationships and emotional responses to each other. A transformative approach might encourage recognition and empowerment. A spiritual or heart-based approach might find out the kind of family they each want to have, bring awareness to the family they are actually experiencing and encourage them to speak from their hearts. A systems design approach might consider the conflict culture in the family and invent proactive and preventative alternatives to handle their next conflict. A holistic, pluralistic, eclectic approach might seek to accomplish each of these, moving back and forth between them as family interactions suggest different obstacles to resolution.

As a result, the holistic approach requires greater comfort with chaos and indeterminacy, a higher degree of mindfulness and awareness of what is taking place in the present moment, a calibrated intuition about what is happening in people's hearts and minds and a pluralistic approach to problem-solving.

### **Diverse Approaches to Problem-Solving**

In lieu of a "locations" approach, we can describe the various styles of mediation by examining the way each analyzes and attempts to solve problems. We can, for example, seek to understand problems in fundamentally opposite ways: by using reductionism or holism, analysis or imagination, history or fantasy, abstraction or experience, intellect or emotion, logic or intuition.

We can apply science or art, objectivity or subjectivity, divergence or convergence, contrast or commonality. We can look at problems digitally or analogically, sequentially or summatively, in isolation or in relationship to context and environment. Each approach provides different answers and when combined, reveals hidden symmetries that deepen our understanding.

In essence, the left hemisphere of the brain is a scientist while the right is an artist. Each of these modes of understanding augments and enlarges the ways we experience conflict and resolution. Each generates radically different results, takes us to different locations on the Medicine Wheel and influences what we are capable of imagining. Each allows us to develop a different set of practical techniques and in combination, leads to a deeper, more integrated understanding of the whole.

When we attempt to understand conflict resolution using only logic, reductionism, history and science, we make its emotional, holistic, experiential, artistic aspects less accessible. As a result, we may decide to settle disputes without resolving the underlying reasons that gave rise to them, or fail to recognize the presence of a subtle,

yet attainable potential for heartfelt conversation that could lead to transformation and transcendence.

When we abandon logic, reductionism, history, and science, we become mired in mysticism, sink into sentimentality and naiveté, and lose the parts of resolution which rely on reason, science, strategy, technique and planning. There is a science to every art and an art to every science, and what works best is not one or the other but both in combination. And beyond their simple combination lies the possibility of their seamless, synergistic, holistic integration, which marks the beginning of wisdom.

Each of these ways of describing conflict allows a different set of observations, experiences, truths and understandings to emerge. Each requires a different set of skills and interventions to be effective. Each comes to a different conclusion. None is more accurate or effective than the others, yet each may be better at addressing a particular kind of conflict. And combined into a single, unified whole, they have much more power than any one by itself. Doing both simultaneously allows us to understand phenomena as *both* discrete and continuous, stable and moving, analog and digital, different and similar, objective and subjective, quantitative and qualitative, particle-like and wave-like.

Would it not make sense, then, for us to become fluent in *all* these styles and approaches and learn how to select those that will work best in each conflict? And in combination, might they reveal underlying symmetries and connections that would allow us to integrate these seemingly diverse approaches into a single, holistic, interrelated, unified whole?

### **Become the Resolution You Seek**

In the end, conflict resolution reveals that people cannot successfully resolve, transform or transcend conflicts by acting inconsistently with their values, or manipulating others, or making choices that do not belong exclusively to them, or sacrificing other people's future to their own. When people act unilaterally or exclusively to resolve shared conflicts, it discourages opponents from accepting responsibility for implementing solutions, cheats both parties out of partnership and collaboration and fails to resolve the entire conflict. Similarly, when we act as though there is a correct approach to mediation, we close the field to diversity, innovation and learning.

Our deepest challenge is to recognize that mediation cannot be separated from the mediator and that we need to *become*, to paraphrase Gandhi, the resolution we seek in the world. In this way, the attitudes, styles and approaches we adopt *create* the future, *are* the lessons we teach and *model* the values in mediation. In the end, who we are *is* the technique.

We therefore need to improve our skills and methods by learning to move in our own way, holistically, pluralistically and eclectically, yet inexorably into the heart of every conflict we enter. This invites us to recognize that each of us, with our unique histories, personalities, styles, attitudes and approaches, brings a unique way of seeing and influencing the world that is both a precious resource and a gift to conflict resolution and the future.

## SEVEN MODELS, STYLES, OR APPROACHES TO MEDIATION

Each of the following models, styles, or approaches to mediation can be distinguished partly by its selection of a primary location for intervention and adoption of a methodology appropriate to that particular site. Thus:

1. A *conciliative* style aimed chiefly at reducing the fighting that primarily uses physical calming and spatial tools such as separation, reassurance, sympathetic tone of voice, and caucusing
2. An *evaluative* or directive style aimed mainly at settlement that primarily uses mental calming and logical tools such as analysis, distinction, debate, instruction, compromise, and reductionism
3. A *facilitative* style aimed primarily at resolution that primarily uses emotional calming and affective tools such as listening, empathy, acknowledgement, summarization, reframing, and dialogue
4. A *transformative* style aimed principally at the value or moral imperative of personal transformation that primarily uses relational calming and meaning-altering tools such as recognition and empowerment, along with participation, responsibility, and relationship building
5. A *spiritual, heart-based, or transcendent* style aimed mostly at personal letting go, forgiveness, and reconciliation that primarily uses attitude calming and heart-based tools such as centering, mindfulness, direct heart-to-heart communication, compassionate inquiry, wisdom, and insight
6. A *systems design* style aimed at preventing systemic dysfunctions that primarily uses systems thinking and design principles to alter the context, culture and environment in which conflicts occur
7. An *eclectic* style that uses all these approaches more or less simultaneously, responding to each moment, person, and conflict differently and moving between them as opportunities for resolution present themselves

## 15 VALUES IN MEDIATION

1. All interested parties are included and invited to participate fully in designing and implementing content, process, and relationships.
2. Decisions are made by consensus wherever possible, and nothing is considered final until everyone is in agreement.
3. Diversity and honest differences are viewed as sources of dialogue, leading to better ideas, healthier relationships, and greater unity.
4. Stereotypes, prejudices, assumptions of innate superiority, and ideas of intrinsic correctness are considered divisive and discounted as one-sided descriptions of more complex, multi-sided, paradoxical realities.
5. Openness, authenticity, appreciation, and empathy are regarded as better foundations for communication and decision-making than secrecy, rhetoric, insult, and demonization.
6. Dialogue and open-ended questions are deemed more useful than debate and cross-examination.

7. Force, violence, coercion, aggression, humiliation, and domination are rejected, both as methods and as outcomes.
8. Cooperation and collaboration are ranked as primary, while competition and aggression are considered secondary.
9. Everyone's interests are accepted as legitimate, acknowledged, and satisfied wherever possible, consistent with others' interests.
10. Processes and relationships are considered at least as important as content, if not more so.
11. Attention is paid to emotions, subjectivity, and feelings, as well as to logic, objectivity, and facts.
12. Everyone is regarded as responsible for participating in improving content, processes, and relationships, and searching for synergies and transformations.
13. People are invited into heartfelt, spiritual communications and inner awareness, and encouraged to reach resolution, forgiveness, and reconciliation.
14. Chronic conflicts are traced to their systemic sources, where they can be prevented and redesigned to discourage repetition.
15. Victory is regarded as obtainable by everyone, and redirected toward collaborating to solve common problems, so no one feels defeated.

### **20 WAYS TO RESOLVE DISPUTES**

1. Stop arguing or fighting and sit down together to talk.
2. Take turns speaking and listening without interrupting.
3. Summarize, clarify and acknowledge what the other person has said or feels.
4. Say what you think the other person is saying. Ask if you are correct. If not, listen again.
5. Avoid accusations. Say: "I feel ...when you ...because.
6. Focus on the future rather than the past.
7. Focus on problems and behaviors rather than personalities.
8. Focus on interests rather than positions. Ask "Why do you want that?"
9. Break the problem down into smaller parts. Focus on one, starting with the easiest.
10. Search for creative solutions. Brainstorm ideas.
11. List, categorize and prioritize all possible solutions.
12. Agree on criteria to make the agreement fair and workable.
13. If you can't agree, take a break and come back to it later.
14. Write down what you want and what you are willing to do to end the dispute.
15. Move on to other issues.
16. Split the difference 50/50.
17. Consider trade-offs and ways to "expand the pie."
18. Say what will happen if the dispute is not resolved,
19. Write down and confirm your agreements. Check on your progress.
20. Ask someone you both trust to mediate or arbitrate the issues.

## EIGHT STEPS TO RESOLUTION

1. **Set the Stage:** The mediator arranges the environment, welcomes the parties, introduces him/herself, asks those present to introduce themselves and establishes the ground rules for the session.
2. **Listen to the Stories:** Each person explains the conflict from his or her point of view. The mediator uses active listening skills to clarify, restate and summarize; asks questions that will help both parties understand the problem better.
3. **Acknowledge the Emotions:** The mediator acknowledges and validates important feelings, and identifies issues for problem solving or negotiation.
4. **Identify the Interests:** The mediator discovers the underlying interests for each party by asking not only what they want, but *why* they want it.
5. **Solve the Problems:** The mediator helps the parties search together for practical solutions to their problems, including the problem of how to improve their communication and their relationship.
6. **Negotiate the Differences:** The mediator helps the parties negotiate their differences collaboratively and arrive at a fair solution, by encouraging both sides to focus on problems rather than people; on interests, rather than positions; on the future rather than the past; and to generate options for resolving their differences by finding mutually satisfactory solutions and prioritizing them; and by searching for solutions that will help prevent the same type of conflict from reoccurring.
7. **Confirm the Commitments:** Agreements are written down in a contract which is very specific in terms of who will do what, by when, where, etc. The agreement is balanced and non-judgmental, and signed copies are given to both parties.
8. **Close the Process:** Once agreement has been reached, the mediator compliments the parties on their success and on the lessons learned, confirms their ownership of the agreement, and sends them away feeling good about themselves and what they have accomplished.

It is also possible to break the process down into 2 steps: listening and problem solving; or 20 steps or 100. What is important is to distinguish the principle arenas in which technique and skill can be developed, and something new can occur.

## OVERVIEW OF STEPS IN THE MEDIATION PROCESS

### **STEP I: SET THE STAGE**

- Welcome the parties. Make introductions.
- Give an overview of the process.
- Discuss ground rules, including caucusing and confidentiality.
- Discuss the Mediation Contract.
- Read and have the parties sign the Statement of Understanding.
- Get verbal agreement on any process rules you might need, such as:
  - \* agree not to interrupt
  - \*agree to be as honest as you can
  - \* agree not to use insulting words or looks.

### **STEP II: LISTEN TO THE STORIES**

- Mediators decide who will talk first.
- Ask person #1 what happened -- use active listening, questioning, etc.
- Ask person #1 how s/he feels and why.
- Summarize for person #1.
- Ask person #2 what happened -- use active listening, questioning, etc.
- Ask person #2 how s/he feels and why.
- Summarize for person #2.

### **STEP III: ACKNOWLEDGE THE EMOTIONS**

- Identify the most powerful emotions and acknowledge them.
- If necessary, go deeper into the emotion to unlock the person from it.
- Transition back into non-emotional discourse by focusing on details or events or proposals to satisfy emotional interests.

### **STEP IV: SURFACE THE INTERESTS**

- Ask "Why?" in relation to the parties positions.
- Focus on the future rather than on the past.
- Identify the parties goals for their communication, relationship or the mediation/problem solving process.

### **STEP V. SOLVE THE PROBLEMS**

- Summarize all of the issues.
- Ask parties if they agree with the list of issues.
- Ask parties if they can think of any other issues.
- Set an agenda to discuss the issues.
- Solve one issue at a time.

- Identify first issue for the parties.
- Ask person #1 what s/he thinks should be done to resolve this issue -- the issue may or may not involve restitution.
- Ask person #2 if s/he agrees with person #1's suggestions or can think of any other ways to solve the issue -- any additions or deletions.
- Go back and forth between the parties until they have reached an agreement they are both happy with.

**STEP VI: NEGOTIATE THE DIFFERENCES**

- If you are unable to solve the problem, try to agree on what will happen, and reach a series of agreements to disagree.
- Make sure the negotiation process is collaborative rather than adversarial.
- Be sure to cover all the details, including what will happen if the agreement is violated.

**STEP VII: CONFIRM THE COMMITMENTS**

- Make sure the agreement is specific and realistic -- it must be "do-able".
- Summarize the agreement.
- Ask each party if the issue is solved before you move on to the next issue.
- Write down the agreement.
- Solve each issue in a similar fashion -- always alternating between parties.

**STEP VIII: CLOSE THE PROCESS**

- Congratulate the parties for their behavior and work in reaching agreements.
- Look for ways they might improve their communication or relationship.
- Create a ritual act of letting go of the conflict, as by shaking hands.

## SOME TYPICAL MEDIATOR STATEMENTS

"Hi, I'm \_\_\_\_\_ and this is \_\_\_\_\_ and we are your Mediators. If it's OK with you, we'd like to speak to everybody on a first name basis. Is that all right? So, you are \_\_\_\_\_ and \_\_\_\_\_ and \_\_\_\_\_. We'd like to welcome you and are glad you decided to use mediation as a way to work out your conflicts."

"Before we start the session, we'd like to tell you just a little about how mediation works. The session will take approximately one to two hours. During that time, each of you will have a chance to tell what happened from your point of view."

"There will be an opportunity to talk about the issues and work towards reaching a mutual agreement. When a solution is reached, we will write down the terms and ask both of you to sign if you agree."

"Our role as mediators will be to help you listen to each other, to discuss the issues and explore solutions. We are not here to make judgments or take sides. We may offer suggestions, but if you don't like them, feel free to say so. If you feel like we are not helping, please tell us."

*Say:* "We would like to ask you to agree to a number of ground rules before we start. Can both of you agree not to interrupt while the other person is talking?" "Do both of you agree to try to be honest with each other?" "Can you both agree to try not to use words or looks that are insulting to the other person during this session?"

"We may take notes during the session to help us remember the important things each of you say. After the session is over, we will destroy all of our notes."

"Everything said in this mediation is confidential. That means whatever is said here stays here. In fact, even if we fail to reach an agreement today, the mediators can not be called into court to testify. The only exception to the confidentiality rule would be if we felt either of you were in danger of being physically hurt or hurting others. Can you both agree to keep everything said here confidential?"

"Also, we may decide to meet individually with each of you in what we call a caucus. If so, we will feel free to communicate whatever is said to the other person unless you ask us to keep it confidential. Is that all right with you?"

"Do you have any questions?"

"Before we get into the session, we would like to read to you and have each of you sign a Pre-meditation Agreement." (*Read and have each person sign*)

*Ask person #1* , "Would you tell us what happened from your point of view."

*Use active listening techniques. Ask questions. Summarize.*

*Ask person #1*, "How do you feel about what happened? Please say more."

*Ask person #2* , "Would you tell us what happened from your point of view."

*Use active listening techniques. Ask questions. Summarize.*

*Ask person #2*, "How do you feel about what happened? Please say more."

*Decide whether to meet in caucus.. If so, say:* "We would like to meet for a few minutes in caucus with each of you, beginning with \_\_\_\_\_." If you do

"Thank you for meeting in caucus with us, that was very helpful."



*Summarize what both parties have said.*

*Summarize all the issues.*

*Ask both parties, "Do you agree that these are the issues?"*

*Ask both parties, "Can you think of any issues we left out?"*

*Ask, "Is it OK to discuss the issues in this order? All right, so the first issue is...."*

*Ask person #1, "What do you think should be done to resolve this issue?"*

*Ask person #2, "Do you agree with this solution? Can you think of any other ways to resolve this issue?"*

*Go back and forth until they have reached an agreement that both are happy with.*

*Make sure the agreement is specific and realistic -- it must be "do-able".*

*Summarize the agreement.*

*Ask, "Does this solution resolve the issue for both of you?"*

*Write down the agreements.*

*Solve each issue in a similar fashion -- alternate between parties based on issues.*

*Say, "Thank you for being willing to talk honestly with each other about a difficult topic, and thank you for using mediation as a way to resolve your problems. You have both done a terrific job."*

## QUESTIONS FOR MEDIATORS

- "Please tell me what happened."
- "Can you give a specific example?"
- "How did you feel when she said that?"
- "Can you say more about why you think that?"
- "What did you mean when you said . . . ? "
- "Can you explain why you said that . . . ?"
- "Why do you think that happened?"
- "Is there anything, with hindsight, that you would do differently?"
- "What have you learned from this experience?"
- "What do you think the other person would say about that issue?"
- "If you were the other person, how would you have felt?"
- "Has anything like this ever happened to you before?"
- "What is the worst part of this conflict for you?"
- "What is most important to you about this problem?"
- "What would you like to see happen?"
- "What solutions can you think of that would help to solve the problem?"
- "What are you willing to do to end this conflict?"
- "What do you think is really going on here?"
- "What would it take for you to feel the problem has really been solved?"
- "What would it take for you to give up that position?"
- "Does that suggest that there may be a deeper level to this problem?"
- "Is this connected in any way to other problems you are experiencing in your life?"
- "What do you think supports the continuation of this conflict?"
- "What is the potential cost to you of not resolving this dispute?"
- "How has this conflict affected you?"
- "Is there anything else you would like to add?"

## MEDIATION TECHNIQUES BY LOCATION

Here are the main resolution techniques for each of six primary conflict locations:

1. *Physical Techniques:* Paying attention to body language, physical movement, and sensory awareness, allows us to speak *directly* to the body and resolve conflicts at their physical source. For example, we can encourage people to fighting and de-escalate their conflict by:

- Moving out from behind our desks into an open circle of chairs
- Modulating our voices
- Arranging our bodies to subtly mirror the parties' postures
- Lowering our height to appear less threatening
- Making eye contact with our "non-dominant" eye
- Nodding to encourage trust
- Using hand gestures to communicate calm
- Moving closer to communicate sensitive information
- Using body language to counteract aggressive or defensive postures
- Using touch to "anchor" negative feelings in one physical location and positive feelings in another
- Indirectly embracing the space around the parties with our arms
- Lightly touching someone to soothe their wounded feelings
- Leaning forward to interrupt fruitless exchanges, or backwards to open a space for direct communication
- Holding up our hands to stop a combative communication or block an aggressive party from becoming violent
- Closely observing body movements to monitor shifting states of mind, emotion, and attitude
- Expanding body awareness by asking questions about how someone is physically sensing themselves, others, or the conflict

2. *Mental Techniques:* We have learned a great deal about how to resolve conflicts mentally, logically, sequentially, and intellectually. For example, we can help conflicted parties move toward settlement by:

- Clarifying and explaining the parameters of the resolution process
- Establishing clear ground rules
- Listening to facts and explanations
- Identifying the issues requiring settlement
- Setting an agenda listing issues for discussion
- Contracting and agreeing to work toward solutions
- Caucusing to explore hidden agendas
- Brainstorming options

- Clarifying interests
- Accumulating points of consensus
- Using law, research, and expert opinion to resolve differences
- Evaluating arguments and proposed outcomes
- Facilitating negotiations
- Urging settlement for objective and subjective reasons
- Making recommendations and evaluations to promote settlement
- Drafting agreements
- Reviewing and solidifying commitments

3. *Emotional Techniques:* Resolving the underlying emotional reasons for conflict requires a subtle, sensitive, facilitative, empathetic approach. For example, we can help moderate negative emotions and resolve the underlying emotional reasons for conflict by:

- Listening to and naming the emotions parties express
- Acknowledging and accepting emotional declarations
- Normalizing and validating emotional concerns
- Mirroring emotional affect
- Releasing hidden emotions by asking probing questions
- Reframing to raise or lower emotional intensity
- Searching for emotional triggering mechanisms
- Connecting emotions to vulnerability and internal issues
- Revealing the benefits gained from intense emotion
- Empowering people to tell others how they feel and set limits
- Eliciting and surfacing repressed emotions
- Reducing emotional resistance and ego defenses
- Redirecting emotion from people to problems
- Separating intentions from effects
- Shifting focus from emotions to behaviors
- Agreeing to change behaviors in the future
- Connecting emotions with underlying interests
- Modeling appropriate emotional responses
- Acknowledging and apologizing for negative, disrespectful, or counter-productive communications

4. *Spiritual Techniques:* Spirit is easier to translate into techniques if we substitute the words intention, energy, life force, or *chi*. For example, we can assist people in moving beyond resolution to forgiveness and increased mindfulness or awareness by:

- Centering, relaxing, and balancing internally
- Releasing past recollections, emotions, and judgments

- Releasing future expectations, goals, plans, and desires
- Expanding present awareness
- Clarifying and concentrating energy, spirit, intention, or *chi*
- Setting the physical stage for intimate conversation
- Opening with an appeal to the parties highest intentions
- Sitting in silence and slowing the pace of conversation
- Watching the energy flowing within, around, and between the parties
- Using compassion to understand for the parties' deepest intentions, motivations, and desires
- Asking questions that clarify people's deepest intentions
- Using silence, pacing, body language, tone of voice, and emotional vulnerability to communicate sincerity and positive intentions
- Asking questions that encourage responsibility for intentions, attitudes, and choices
- Encouraging forgiveness, acceptance, and letting go
- Identifying all the reasons for *not* forgiving, what is wrong with those reasons, and the price for not forgiving
- Designing rituals of release, completion, and closure

5. *Heart Techniques:* The greatest deficit in current models of mediation is our lack of skill in responding to conflict in its heart location, yet we can assist parties in engaging in heartfelt conversations and reaching reconciliation by:

- Welcoming people with an open heart
- Opening with a question, invocation, or invitation directly to the heart
- Asking people to tell each other why they want to resolve the conflict, or what kind of relationship they would like to have
- Eliciting the heart-meaning of conflict stories
- Opening our hearts and using them to search for questions that invite the parties to speak and listen from theirs
- Asking direct, honest questions that encourage integrity and trust
- Being vulnerable and encouraging vulnerability in others
- Honestly communicating our heartfelt insights, preferably in the form of questions
- Encouraging people to ask each other heart-felt questions and answer them openly and honestly
- Focusing attention and awareness on what is taking place at the center, core, or heart of the dispute
- Bringing humor and play into the conversation
- Encouraging participation in activities likely to result in positive, collaborative, open-hearted experiences
- Asking each person what they learned for themselves from the conflict
- Identifying what each person is willing to do differently as a result
- Encouraging complete reconciliation
- Jointly designing new consensual relationships
- Ending with heart-felt acknowledgements and appreciations

6. *Systems Design Techniques*: Attempting to resolve the systemic, contextual, cultural, and environmental sources of conflict in ways that can prevent future conflicts allows us to work preventatively and systemically in response to chronic sources of conflict, for example, by:

- Conducting a “conflict audit” to identify the chronic sources of conflict within an organization or system
- Analyzing and targeting the chronic source of conflict, including their connection to systems, structures, culture, communications, strategies, change, values, morale, motivation, styles, and staffing
- Viewing conflicts not as isolated events, but as part of a stream of disputes originating in systemic dysfunction
- Identifying the core cultural ideas, traditional approaches, and informal mechanisms already in place for resolving conflict
- Supplementing these with enriched alternatives that emphasize prevention, skill building, and early intervention
- Approaching conflict resolution in multiple, diverse ways that allow many people to work on the conflict from different perspectives with different methodologies
- Emphasizing integrated conflict resolution systems over individual or discrete procedures
- Focusing on interest-, rather than rights- or power-based solutions
- Expanding the number and kind of resolution alternatives available internally and externally
- Arranging these procedures from low to high cost
- Encourage early informal problem solving
- Including a full range of options from process changes to arbitration
- Providing low-cost rights and power back-ups
- Creating “loopbacks” to informal problem solving and negotiation
- Encouraging consultation before, feedback and facilitation during, and evaluation afterwards
- Using dialogue, coaching, and mentoring to alter entrenched behaviors
- Instituting practices that support inclusion, empowerment, equity, dialogue, collaboration, and consensus, and other organizational techniques for reducing conflict
- Develop training programs in conflict resolution and ways of implementing and sustaining preventative systems
- Simplifying policies and procedures and adopting measures to encourage widespread use of resolution procedures
- Increasing motivation, skills, support, and resources to make these interventions work
- Continually evaluating why these succeed or fail, and improving the design

## ***THE MEDIATION PROCESS:***

### **STEP I: SET THE STAGE**

#### **HOW TO SET THE STAGE**

- The mediators set up the physical environment to encourage dialogue, and arrange the chairs so the parties can speak to the mediators and to each other.
- The mediators prepare themselves emotionally and psychically.
- The mediators welcome the parties to the session.
- The mediators introduce themselves, and each of the parties.
- The mediators give the parties an overview of the mediation process.
- The mediators refer to the goal of solving the problem, and producing a written agreement.
- The mediators may explain why it is necessary to have ground rules.
- The mediators explain their neutrality and lack of power to decide.
- The mediators explain the ground rule of confidentiality.
- The mediators ask the parties whether they have any questions about process.
- All parties read and sign the pre-mediation agreement.
- The mediators get verbal agreement to each of the ground rules from each of the parties.
- The mediators take turns speaking.
- The mediators give each party an opportunity to speak about half of the time.
- The co-mediators are equally involved in the process.
- The mediators begin to establish trust with the parties.
- The mediators establish a safe and comfortable atmosphere for disagreement to surface and a discussion of the reasons for conflict to emerge.

## MEDIATION AND MEDITATION: THE DEEPER MIDDLE WAY

By Kenneth Cloke

*“Now, there are many, many people in the world, but relatively few with whom we interact, and even fewer who cause us problems. So, when you come across such a chance for practicing patience and tolerance, you should treat it with gratitude. It is rare. Just as having unexpectedly found a treasure in your own house, you should be happy and grateful to your enemy for providing that precious opportunity.”*

The Dalai Lama

Conflict is everywhere, not only between human beings, but throughout nature, from quantum mechanical particles to dark energy and the soap bubble structure of galactic superclusters. Nonetheless, we each take our conflicts personally, and far from being happy or grateful to our enemies, we often allow ourselves to be thrown off balance and drawn into unpleasant ideas, negative emotions, and destructive behaviors.

So what is the solution? How do we return to balance and equanimity, and perhaps even to happiness and gratitude? We can start by reframing conflict through the lens of the “four noble truths,” as originally taught by the Buddha. For example, we can recognize that our lives are filled with conflict; that conflict is a form of suffering that is caused by attachment; that we can stop, settle, resolve, transform, and transcend our conflicts by reducing our attachment; and that the way of doing so is by following the middle path – in other words, not merely by meditation, but mediation as well.

However, as we quickly learn, while the middle path may *seem* simple, it conceals a number of profound truths, one of which is that there is simplicity both this and the other side of complexity. As the famous Zen saying puts it,

*“Before I started meditating, blue mountains were blue mountains and white clouds were white clouds. After meditating a while, blue mountains were no longer blue mountains and white clouds were no longer white clouds. But after meditating further, blue mountains are blue mountains and white clouds are white clouds”*

In conflict, we often delude ourselves into thinking we are following the middle path, but are actually, in a simple way, only withdrawing from our opponents, remaining silent, and avoiding engagement or controversy. But if we want to become “Bodhisattvas of conflict,” we need to follow a different path, one that leads us through, and to the other side of complexity and conflict.

This “middle” path consists of engaging with the conflicted parts of ourselves and our opponents, and discovering through awareness and the experience of authentic relationship, a deeper source of compassion than the abstract, purely meditative one that is often devoid of genuine experience, and as a result, does not *require* us to grapple with or overcome our attachments at their source.

There are actually two different middle paths, leading to entirely different outcomes. The first consists of adding two things together and finding their average. We do this when we add two sums and divide by two, or when we combine something hot with something cold to produce something that is lukewarm.

The second middle way consists of combining entirely different things in a creative way, as when we combine water with flour and heat to create bread, which is not an



average, but an outcome that is completely new and different. The same transformation takes place when we ask questions that reveal the underlying reasons for a dispute, which often have nothing in common with the issues people are vigorously fighting over

This deeper, *transformational* middle way can be accessed through “skillful means,” which include not only meditation techniques that assist us in becoming more centered, compassionate, and aware of ourselves and others; but mediation techniques that enable us to engage in authentic and committed listening, openhearted communication, empathetic dialogue, creative problem solving, collaborative negotiation, genuine forgiveness, and reconciliation. These quintessential conflict resolution skills allow us to escape the ruts our conflicts draw us into, and reveal to us that it is the *mind*, and not just the flag or the wind that is waving. How do we reach this awareness?

Within Buddhism, there are not only mindfulness or awareness practices, but concentration and insight practices. These ultimately merge into a single practice that encompasses every part of us. As the great Rinzai teacher Hakuin wrote:

“What is the true meditation? It is to make everything – coughing, swallowing, waving the arms, motion, stillness, words, action, the evil and the good, prosperity and shame, gain and loss, right and wrong – into one single *koan*.”

A *koan*, of course, is a brief story, question, or dialogue that conceals a paradox, or to paraphrase, a conflict containing two truths, and does so in such a way as to illuminate their essential unity. The most commonly referenced *koan* is “what is the sound of one hand clapping.” To rephrase this paradox in relation to conflict, we might ask: “what is the disagreement between one party?”

In doing so, we see that if we act in such a way that there are no longer two parties, but only one, the conflict between us must disappear, simply because there cannot be a conflict without two or more sides. Yet there is an even deeper truth about conflict. The brilliant physicist Neils Bohr, in describing the paradoxes of quantum theory, coined the useful expression “complimentarity,” which he defined as “a great truth whose opposite is also a great truth.”

When we apply this idea to conflict, we discover that a more profound outcome than the simple disappearance of conflict is the unification of what we formerly regarded as opposites. But if all the individuals and ideas that are locked in conflict, at a deeper level, simply represent partial expressions of a deeper underlying truth, what is the point or purpose of their conflict? Doesn’t it all seem a bit silly and pointless? Perhaps it was this realization that led Hakuin to also write:

“As for sitting in meditation, that is something which *must* include fits of ecstatic blissful laughter – brayings that will make you slump to the ground clutching your belly, and even after that passes and you struggle to your feet, will make you fall anew in further contortions of side-splitting mirth.”

What is the source of this laughter and mirth, as applied to conflict? I believe it is the profound recognition that all our fuss and bother amounts to precisely nothing; that it is all simply an opportunity for transformation and transcendence; that it is a chance to be grateful to our enemies and learn from them, and happy that they finally brought us back to sanity and equilibrium.

Using this *koan*, we can now understand that there is a deeper “middle” path than the one mentioned above, one that opens for each of us when we transform and transcend our conflicts by finding a middle path that includes *both* of our opposing truths, that integrates mediation and meditation into a single *koan*, and that practices both as a single, undifferentiated whole. Zen writer Bernard Phillips suggests:

“In Zen, the effort and the result are not two different things, the means and the goal are not separated, the finding occurs in the very seeking itself. For ultimately, what is sought is the wholeness of the seeker, and this emerges only in the wholeheartedness of the seeking.”

In other words, the “simple” middle path that lies on the far side of complexity appears only when we “walk the talk,” and *become* not just the resolution, and the integrated expression of both sides legitimate concerns, but the conflict as well, as revealed in the way that we approach and engage in it. As the 12<sup>th</sup> century Chinese Zen monk Ta Hui (Dahui) wrote, “When a person is confused, he sees east as west. When he is enlightened, west itself *is* east.” In practical terms, what does this realization mean for conflict resolution?

As mediators, we routinely enter the conflicts of others, but do not always understand that, as a consequence, their conflicts also enter us. As Friedrich Nietzsche wrote, “When you look into the abyss, the abyss looks into you.” Meditation is a way of looking into the abyss of conflict and allowing it to enter us without overwhelming our equilibrium, but instead, pointing us in the direction we need to go -- not only to assist others in stopping, settling, resolving, and transforming their conflicts, but to finally and completely transcend them within themselves. How can meditation assist mediators in achieving these outcomes?

There is a natural affinity between mediation and meditation, inasmuch as both recognize the simultaneity of unity and opposition; both acknowledge the presence of diverse and multiple truths; both seek a middle way; and both encourage us to have a *complete experience* of our conflicts, allowing us to evolve and leave them behind.

While there are dozens of personal benefits that flow from meditation, experienced mediators may find, as I have, that Buddhist awareness, contemplation, and insight practices can enhance our professional skills as well. It is not uncommon, for example, for mediators who meditate regularly to experience the following benefits:

- Improved ability to remain calm and balanced in the presence of conflict and intense emotions
- Greater willingness to move beyond superficiality in conversation and move into the heart of whatever is not working effectively
- Expanded sensitivity to the subtle clues given off by the parties, indicating a shift in their thoughts, feelings, and attitudes
- Deeper insight into the nature of suffering and what might be done to release it
- Greater awareness of what apparent opponents have in common, though they emphatically disagree and even dislike each other
- Improved creative problem solving skills, and ability to invent or discover imaginative solutions

- Expanded capacity to calibrate and fine-tune insights and intuition
- Greater sensitivity to the natural timing of the conflict
- Increased willingness to engage in “dangerous” or risky conversations and raise sensitive issues without losing empathy
- Decreased investment in judgments, attachments, expectations, and outcomes
- Increased ability to be completely present, open, and focused
- Reduced stress and burnout

Of course, this does not mean that meditators always make superior mediators. Buddhists have not always been the best role models in conflict, and Buddhism has, in my experience, fallen short in developing the *social* practice of what I call “inter-mindfulness,” or what meditation teacher Shinzen Young calls “the monastery of relationships,” which is an essential part of many conflict resolution practices.

Nonetheless, it is clear that within Buddhism, as within mediation, lie a clear set of instructions on how each of us can improve our skills in handling conflict and untangling the knots they create inside us. What are these instructions, and how exactly do we develop these skills?

While meditation is traditionally oriented to internal sensations, awareness is a generic source of skillful techniques and insights – not only into ourselves, but into others and our relationship with them, and as a result, into the nature and sources of conflict. Buddhism and conflict resolution can therefore both be said to operate by improving awareness, which can easily be applied to a wide range of difficult conversations, interactions, and relationships.

Whereas Buddhist meditation focuses attention primarily internally, for example on the breath, noticing thoughts, emotions, and internal bodily sensations, then letting them go; mediation focuses attention primarily externally, for example on communications and interactions between conflicted parties, noticing and discussing what is not working in their relationship, then asking what might be done to improve or let go of it. By combining these approaches creatively, we are able to produce new combinations.

We can say, for example, that “*mediative meditation*” consists of using awareness to expose the false expectations, self-judgments, and suffering that lie hidden beneath the surface of our conflicts. These keep us attached to our opponents and issues, and create the sensation of a solid, separate “Self” that congeals quickly around unresolved antagonism. They encourage us not simply to imagine or verbalize loving-kindness, but to act and make it real.

“*Meditative mediation*,” on the other hand, can be said to consist of being keenly aware of what is taking place inside us in the midst of conflict, using empathy and compassion to increase our awareness of what is happening internally within ourselves and the parties, and helping to bridge the gap between them so they can discover a way out of their antagonism, attachment, and suffering. These combined practices enable us to move beyond merely settling, or even resolving disputes to discover insightful ways of transforming and transcending them.

We can do so, for example, using mediation techniques such as empathetic storytelling and private reflection; by creatively reframing differences to reflect underlying unities; by asking conflicted parties to empathetically imagine what it might have been like to have experienced what the other person experienced; by ask them to speak directly to each other from their hearts; and by drawing their awareness to what they are experiencing right now, or the way they are talking to each other, and asking each what the other could do that would help them listen or speak more openly, then doing that, and using feedback to reinforce awareness and on-going practice.

It is one thing, of course, to use these techniques in mediation with complete strangers, and quite another to avoid losing our balance when *we* are the ones in conflict. How do we use these skills in such a way as to remain authentically ourselves, and become *unconditionally* openhearted and aware in the presence of our opponents? Even a strong intention to practice compassion and loving-kindness may not suffice to achieve this goal, so it is useful to ask ourselves some difficult questions that will help us draw our attention to what really matters. Here are a few to start with:

- What do I really know about my opponent?
- What would make me decide to act or speak like that?
- What is true for him/her?
- What questions could I ask to find out?
- What am I doing that is helping to fuel the conflict?
- What am I *not* doing that is helping to fuel the conflict?
- What is the crossroads I am standing at right now in this conflict?
- What is the deeper “third path” or “middle way” in this conflict?
- How might changing my attitude, behavior, or response help me resolve, transform, or transcend it?
- What would it take for me to do so?
- What is preventing me from moving forward or letting go?
- Can I maintain awareness of my breath and what is happening in my body, mind and emotions while I am in the midst of conflict?
- What price have I paid for this conflict? What has it cost me?
- How much longer am I prepared to continue paying that price?
- What is the most difficult aspect of this conflict for me? What makes that difficult?
- What would it take for me to let it go completely and open my heart to the person I am fighting with?
- What is one thing the other person could do that would change my entire attitude toward the conflict? What is one thing I could do?

- Is there anything I would be willing to apologize for, or offer without any expectation of return?
- On a scale of 1 to ten, how sincere and deep was the apology I gave or the gesture I made?
- What would it take to make it a 10?
- What does my heart tell me to do?

The opportunities for integrating Buddhist awareness, insight, and contemplation practices into dispute resolution, both personally and professionally, are limitless. Yet the modern world makes it much more difficult to sustain these attitudes and practices. The highly respected Zen scholar and practitioner D. T. Suzuki, who was invited to speak in London in 1936, noticed the contrast between traditional contemplative practices and the demands of modern life:

“How can I construct my humble hut right here in the midst of Oxford Circus? How can I do that in the confusion of cars and buses? How can I listen to the singing of birds and also to the leaping of fish? How can one turn all the showings of the shop window displays into the freshness of green leaves swayed by the morning breeze? How am I to find the naturalness, artlessness, utter self-abandonment of nature in the utmost artificiality of human works? This is the great problem set before us these days.”

The problem today is even greater, as it includes an additional difficulty: How we do so not just in the midst of our own internal conflicts, or even the deeply upsetting interpersonal conflicts that transpire in our families, workplaces, and neighborhoods; but in response to wars, bombings, genocides, ethnic prejudices, religious intolerances, mistreatment of women and children, and seemingly endless international conflicts over environmental choices, economic policies, and political beliefs that affect us all deeply, no matter how far we may imagine we are from the turmoil and terror.

These larger conflicts reinforce the Zen saying that: “The believing mind believes in itself,” thereby turning belief in a circle so that it becomes a source of conflict. Sometimes, as May Sarton wrote, “One must think like a hero to behave like a merely decent human being.” But sometimes one must also think like an ordinary human being, merely chopping wood and carrying water, in order to be heroic enough to find ways of transcending the conflicts that separate us.

In order to escape the downward gravitational tug of antagonisms on any level, and resolve, transform, or transcend them, we require a combination of inner and outer skills. If we do not transform ourselves, we will find it much more difficult to transform the world; and if we do not transform the world, we will find it far more arduous to transform ourselves. In meditation as in mediation, inner and outer increasingly merge and reveal themselves as one.

These are just a few of the important lessons we are able to learn by seeking the places where Buddhism and conflict resolution intersect. What is fascinating to me as a practitioner of both over the course of many years are the ways they call out to each other, invite each other in, and increasingly *require* the skillful practice of the other. Trying to meditate without addressing underlying conflicts makes our practice superficial, frustrating, and incomplete. Trying to mediate without cultivating awareness traps us at the surface of our conflicts and ignores what is taking place in

their depths. When we combine these practices, we are led to the deeper middle way, and to profound insights, both for ourselves and others.

These are difficult tasks and a lifetime's work, but perhaps there are lots of resources that can help you make a start. Many efforts are now being made to reveal the richness and relevance of Buddhism as an approach to understanding what lies beneath the surface of our conflicts, and guide us in discovering their sources deep within ourselves. Among these are soon-to-be-published writings by Ross McLauran Madden and Ran Kuttner, both of which are filled with insightful stories and examples. I encourage you to watch for their publication and consider how you might use them as sources of techniques for resolving your own and other people's conflicts.

I want to go further, however, and encourage those of you who decided to read this article because of its focus on meditation to learn more about mediation as a practice; and for those who chose to read it because of its orientation to mediation to start or continue a regular practice of sitting meditation, as an integral part of your work in dispute resolution. As the great Buddhist sage Dogen wrote, "Practice and enlightenment are not two." Neither are mediation and meditation.

### WHAT IS MEDITATION?

Meditation is sometimes described as mindfulness, which has been described as:

- Bare attention
- Mirror-like thought
- Non-judgmental observation
- Impartial watchfulness
- Non-conceptual awareness
- Present-moment awareness
- Non-egotistical consciousness
- Awareness of continual change
- Participatory observation

Meditation is the concentrated observation and sensuous experience of life energy as it breathes, flows and evolves within us, it is also the one who is observing and the experience and difficulties encountered in doing so. It is then the gathering of insights based on this process and the transformation of those insights into life changes.

There are two basic varieties of meditation: concentration on an *object* of meditation, such as the breath or a mantra; and awareness or mindfulness without a particular object by observing the *flow* of attention or experience as it moves in and around you.

### HOW TO MEDITATE IN 9 NOT-SO-EASY STEPS

1. Wake up!
2. Center yourself.
3. Pay attention, especially to what is paying attention.
4. Let go of everything you possibly can.
5. Let go of letting go.
6. Discover the one within the many.
7. Expand your capacity for love and compassion as much as you can.
8. Rest inside it.
9. Enjoy!

## SAMPLE PRE-MEDIATION AGREEMENT

This Agreement is made between the undersigned parties to the mediation, hereinafter referred to as "the parties," the mediator, and the Center for Dispute Resolution, hereinafter referred to as "the Center." This Agreement is made in consideration of the parties' desire to reach a settlement between them through mediation, which controversies might otherwise be the subject of litigation. In consideration of the above, the parties contract and agree as follows:

1. **Mediator Confidentiality.** The Center will keep confidential all documents submitted by, and communications with, each party, and will not disclose these without that party's prior consent. Both parties agree that all oral and written communications, work analysis, agreements by, with or through the Center or the mediator are part of and shall be deemed to be the mediator's work product and part of settlement negotiations, and shall be inadmissible in any court of law without the written consent of the mediator and both parties.
2. **Parties Confidentiality.** By signing this Agreement, the parties agree that the California Evidence Code provisions regarding confidentiality in mediation shall apply. Those sections provide that when parties agree to participate in a mediation or mediation consultation, no oral or written communication prepared for the purpose of, in the course of, or pursuant to a mediation or mediation consultation is admissible or subject to discovery, and disclosure of such evidence shall not be compelled.
3. **Attorneys Fees.** If the testimony of a mediator is sought to be compelled by subpoena by either party, the court shall award reasonable attorney's fees and costs to the mediator against the person or persons seeking that testimony.
4. **Right to Terminate.** The Center, the mediator, and each party shall have the right to terminate the mediation process at any time. Otherwise, the mediation shall be deemed to continue until a final settlement agreement has been fully implemented, or a written notification of termination has been received from the parties.
5. **Attorney Consultation.** The parties have the right to retain attorneys of their own choosing to advise them with regard to all or part of any settlement agreement, or any other agreement that the Center has assisted them to reach through mediation, prior to the actual execution of such agreement. The parties are advised and encouraged to consult with counsel prior to signing any agreement. The parties acknowledge that the mediators and the Center are not acting as attorneys or therapists for either of them.
6. **Voluntary Agreement.** The parties agree that any decisions or agreements reached by them during the mediation will be fully voluntary, and that neither the Center nor its mediator shall be liable in any way for any agreement reached by the parties through mediation.
7. **Binding Effect.** The parties further agree that this Agreement and any signed settlement agreements produced during the mediation process shall be binding, enforceable, non-confidential, discoverable and admissible in any legal proceeding brought to enforce it.

8. **Tax Advice.** The parties acknowledge that neither the mediator nor the Center for Dispute Resolution has made any representations regarding the tax consequences or effects of any of the matters discussed, and they have been advised to seek the assistance of an accountant or tax attorney to provide advice as to the tax consequences of any agreement they may reach.
9. **Mediator Fees.** The parties hereto agree to pay a fee of \$ \_\_\_\_\_ per mediator per hour, for preparation, mediation sessions, document preparation, and telephone calls in excess of fifteen minutes, payable at the end of each scheduled session, or on receipt of a written invoice. Sessions canceled with less than five days notice will be charged at full fee. Fees for outside experts are the parties' responsibilities. Mediation fees shall be shared equally, unless decided otherwise by the parties. The Center makes no representation, promise or warranty that it will successfully mediate any or all of the controversies between the parties, and makes no representations, promises or warranties other than contained in this Agreement.
10. **Miscellaneous.** This Agreement shall be subject to, and interpreted under the laws of the State of California. Subsequent changes in California law and federal law through legislation or judicial interpretation that create additional or different rights and obligations of the parties shall not affect this Agreement. If any portion of this Agreement is held illegal, unenforceable, void, or voidable by a court of law, each of the remaining terms shall continue in full force as a separate agreement. No waiver of a breach of any of the terms or provisions of this Agreement shall be considered a waiver of any preceding or succeeding breach or any other provisions of this Agreement.
11. **Mediation and Arbitration.** The parties agree that any dispute arising under this Agreement shall be referred to mediation before a mutually acceptable mediator. If the mediation is unsuccessful, the parties agree to submit their claims to final and binding arbitration before a mutually acceptable arbitrator.

\_\_\_\_\_ Date: \_\_\_\_\_

\_\_\_\_\_ Date \_\_\_\_\_

Center for Dispute Resolution by:

\_\_\_\_\_ Date: \_\_\_\_\_

Mediator



## CO-MEDIATION PROCEDURES

1. Allow ample time to plan the mediation session with your co-mediator. Meet 10 - 30 minutes before mediation depending upon the complexity of the case.
  - A. Communicate with each other about the case in advance of the session.
  - B. Discuss co-mediator preferences beforehand.
  - C. Talk with co-mediator about your strengths and weaknesses in the planning meeting.
  - D. Share any time limitations you have with your co-mediator.
  - E. Make a plan with your co-mediator about physical logistics.
  - F. Develop a plan with your co-mediator for a division of tasks to complete the mediation.
  - G. Plan how to gracefully interrupt to discuss differences in style that may be causing problems.
  - H. Arrange a mutually agreeable plan for closure.
  - I. Share phone numbers for continued communication about the case.
  
2. Share with your co-mediator any biases, styles or life experiences that might impact the mediation.
  - A. Declare and discuss in advance any feelings or concerns you have about the conflict.
  - B. If, during a session, you become aware of biases of your co-mediator that may influence the mediation, then try one of the following:
    1. Take a break to discuss these with your co-mediator..
    2. Acknowledge your co-mediators procedure or direction but offer other possible approaches.
  - C. Discuss whom, if anyone, will take the lead role.
    1. How tasks will be divided: Opening Statement, writing out the Agreement, facilitating different portions of the session.
    2. Your individual mediation style, what you do well, what you do not do as well, what you enjoy, anything you want the other person to watch for.
    3. Potential difficulties with the upcoming mediation and how you think you might handle them.
  - D. Be committed to the process of self-discovery, since we are not aware of all our biases.
  
3. Allow for a self-evaluation and debriefing session with your co-mediator at the end of every session (10 - 20 minutes).
  - A. Arrange a plan for closure and division of tasks needed to bring the case to a final resolution (agreement, follow-up calls, 2nd session, etc.)
  - B. Encourage feedback from your co-mediator about your contributions to the session.
  - C. Share honest and constructive feedback with your co-mediator about his or her participation. Be supportive.
  - D. Mutually discuss suggestions for changing approach to future sessions.
  - E. Use open-ended questions and statements to encourage mutual dialogue.
  
4. Common Problems in Co-Mediation
  - Dominating the process and not trading off or sharing direction
  - Time scheduling, premature/late starts, premature/late endings

- No discussion of the session beforehand, no prior planning
  - Necessary supplies, directions, logistics, etc. are not discussed or agreed on
  - Different approaches or styles of facilitators
  - Disagreements over process or direction of the session
  - Inability to relate to the problem or empathize with the participants
  - Unethical, inappropriate or insensitive behavior
  - Unresolved personal conflicts between mediators
  - Bias or prejudice on part of mediator – i.e., based on gender, race, age, etc.
  - Good mediator/bad mediator syndrome
  - Partiality toward or against one of the parties
  - Poor arrangements, seating arrangements, logistics, etc.
  - Unresolved cultural, religious, gender, class or political differences
  - Hunger, fatigue, trauma, or burn out
  - Impatience with the co-mediator or the process
  - Unresolved personal or emotional problems that leak into the session
5. Strategies and Behaviors to Alleviate Common Co-Mediation Problems
- A. Meet ahead of time, deciding on each person’s role, reviewing file, having ground rules, etc..
  - B. Know when and how to call a caucus between the mediators.
  - C. Request assistance by CDR staff member.
  - D. Refer to training manual.
  - E. Take a break/go for a walk.
  - F. Rearrange the seating.
  - G. Sublimate hostility.
  - H. Become more comfortable with co-mediator. Talk to one another.
  - I. Leave differences outside of mediation.
  - J. Turn on the air conditioner, look for solutions to problems.
  - K. Be in “sync” with one another.
  - L. Try different ways/approaches/role reversals between mediators.
  - M. Assign tasks beforehand.
  - N. Improve mediator training and basic knowledge of co-mediation.
  - O. Declare biases in advance.
  - P. Use interpreters or bilingual mediators.
  - Q. Know when to stop or continue.
  - R. Declare preferences for co-mediator, or preference for solo mediations.
  - S. Continue mediating and talk over any differences you have afterwards
  - T. Call session to a halt and bring in a third mediator.
  - U. Stop mediation and reschedule for another time.
  - V. Discuss differences in front of parties and model mediation skills.
  - W. Mediate your differences.

(Based partly on work by L.A. Neighborhood Justice Center)

### SOME PROBLEMS WITH CO-MEDIATION

- Dominating the process and not trading off or sharing direction
- Time scheduling, premature/late starts, premature/late endings
- No discussion of the session beforehand, no prior planning
- Necessary supplies, directions, logistics, etc. are not discussed or agreed on
- Different approaches or styles of facilitators
- Disagreements over process or direction of the session
- Inability to relate to the problem or empathize with the participants
- Unethical, inappropriate or insensitive behavior
- Unresolved personal conflicts between mediators
- Bias or prejudice on part of mediator – i.e., based on gender, race, age, etc.
- Good mediator/bad mediator syndrome
- Partiality toward or against one of the parties
- Poor arrangements, seating arrangements, logistics, etc.
- Unresolved cultural, religious, gender, class or political differences
- Hunger, fatigue, trauma, or burn out
- Impatience with the co-mediator or the process
- Unresolved personal or emotional problems that leak into the session

## INTRODUCTORY STATEMENT BY THE MEDIATORS

The purpose of the Introductory Statement by the Mediators is fourfold:

1. To explain to the parties how the process works;
2. To make the conflicting parties feel comfortable in this process;
3. To help the parties gain confidence in their ability to reach an agreement; and
4. To make it clear to the parties that only they can make the agreement work if an agreement is reached.

The following outline lists the essential points that should be kept in mind when making the Introductory Statement in the mediation session.

- **Be Informal** yet genuinely friendly when you first meet the parties. Shake hands with them when you initially introduce yourself. Encourage the use of first names in the mediation and be sure you do likewise, if acceptable to them.
- **Make them feel comfortable** by offering them soft drinks if available. Ask them if the surroundings are comfortable, and show concern for their well being while in the mediation session.
- **Give positive feedback** for choosing mediation as a means of settling their dispute.
- **Explain what mediation is** concisely and free of jargon. Emphasize the voluntary nature of the process and how only they can make the process work by being willing to discuss their differences openly and by committing themselves to observe the terms of the agreement if one is reached.
- **Make clear to the parties** that the mediation sessions are entirely confidential and that you will not be a witness for either party in the event the case goes to court at a later date.
- **Mention the possibility of a caucus** with each of the parties if the process gets stuck.
- **Be emphatic about the neutral role of the mediator**, and make it clear that as a mediator you are not there to advocate the position of either party.
- **Make sure the parties understand that you are neither a judge nor a police officer** and hence cannot enforce the agreement.

## POTENTIAL GROUND RULES

1. Everyone agrees to be present voluntarily.
2. Everyone agrees that there will be no retaliation or reprisal for anything said or done during the session.
3. Everyone agrees to be honest and to address real problems.
4. Everyone agrees to act with courtesy and not engage in disruptive behavior.
5. Everyone agrees to begin and end on time.
6. Everyone agrees that one person will speak at a time without interruption.
7. Everyone agrees to focus on the issues, situations or behaviors, rather than on the person.
8. Everyone agrees to do his or her best to listen objectively, openly and non-judgmentally.
9. Everyone agrees that it is acceptable to hold caucuses or separate meetings.
10. Everyone agrees that whatever is said in caucuses or separate meetings can be communicated to other participants, unless the party making the statement specifically requests it be kept confidential.
11. Everyone agrees that all decisions will be reached by consensus.
12. Everyone agrees to support group consensus decisions.
13. Everyone agrees that all communications during these sessions will be kept confidential, and if not, which will not.
14. Everyone agrees to be present in a spirit of good faith and problem solving.
15. Everyone agrees to a "cease-fire" in public attacks during the course of these sessions.

## STEP II: LISTEN TO THE STORIES

### **Decide Who Talks First:**

- \* To establish control. When it is clear early on in the session that the Mediators are in control of the process, the parties are more likely to follow the rules and be more cooperative.
- \* To avoid additional arguments and interaction between the parties. The parties are already angry and/or miscommunication with each other or they wouldn't be in a mediation session to start with. If you ask them to make a decision about who should talk first, they will probably argue about it and the problem between them will escalate.
- \* To allow the angriest person to talk first. If you make the angrier person wait to talk, their anger might escalate and interfere with their listening. The calmer person is able to hear the angrier person talk. If both parties are equally angry, you may have to let them sit in separate rooms until one or both is calm enough to listen.

### **Ask Each Person to Tell What Happened From His/Her Perspective.**

- \* Avoid using the word "problem" -- it tends to be a loaded word. It is much better to use a more neutral word or phrase when you ask about what has happened.

### **Help the Parties Listen to Each Other While Each is Telling His/Her Side of the Story:**

- \* Use active listening techniques. Make a validating statement, such as, "I know this is hard for you, but please continue." Make an encouraging response, such as, "Tell me more about that." Restate to the person, by saying something like, "So your car was taken without your permission."
- \* Ask open-ended questions like, "Can you explain more about what you just said?" or "Can you give me some examples of how you would do that?"
- \* Stop the person if he/she is going on and on, and/or repeating and say, "Let me stop you for a minute. I want to be sure I have heard what you have said." Then, summarize and try to focus the person in a productive direction.
- \* Ask the person to summarize the other person's facts and feelings. Say, "Jane, can you tell me what you just heard John say?" and "Jane, how do you think John feels about this situation?" Ask John if Jane's interpretation is correct.

### **After Each Person Has Told His Side of the Story, Ask How S/he Feels.**

- \* It is important to address how each person feels about the problem. Often people have difficulty solving the problem, until they are given a chance to talk about how they feel. Sometimes it is difficult for a person to express how he/she feels. Often a person will use the word "think" or use the word "feel" followed by an action or a thought. That's not a feeling. An example of what you might say to a person who does not respond with a feeling is:

Mediator: "John, How do you feel about that?"

John: "I feel like Jane isn't being fair," or "I think Jane isn't being fair."

Mediator: "What is Jane doing that makes you think she's not being fair? How does that make you feel?"

**Summarize the Content and Feeling of Each of the Party's Stories After Each Person is Finished Talking.**

- \* When you summarize you show the person that you have heard what has been said and how he/she feels.

**Give Each of the Parties as Equal an Amount of Time to Talk as is Possible.**

- \* There is a tendency to rush through the first person's story and move on to the second person. Before the second person speaks, be sure the first person has told his/her side of the story and expressed his/her feelings. Remember to summarize both content and feeling before the second person speaks.
- \* When you are talking to the first person, the second person may get anxious and interrupt. Tell the interrupting person, "Please be patient. As soon as John finishes talking, we'll let you have an equal amount of time to talk. If you think you are going to forget something you want to say, we'll give you paper and pencil so you can write it down."

**After Both People Have Finished Talking, Summarize.**

- \* In a few sentences, give an overview of both person's stories, pointing out similarities so you begin moving the parties towards agreement.
- \* Identify issues that are important to both people. Use the summarizing as a bridge to move into the next stage, "Clarify the Issues."

**Summarize the Content and Feeling After Each Person is Finished Talking and after Both Parties Have Finished Talking.**

- \* Show the person that you have heard what has been said and how he/she feels.
- \* In a few sentences, give an overview of what both parties have said, pointing out similarities so you continue moving the parties towards agreement.

## OPENING STATEMENTS BY THE PARTIES

The purposes of the Opening Statements by the parties are threefold:

1. To give each party the opportunity to describe her/his view of the dispute;
2. To inform each party of the other party's version of the dispute; and
3. To inform the mediator of the nature of the dispute and the relationship between the parties.

The mediators should start by outlining the purposes of the Opening Statements. The parties should be reminded that they will each have an opportunity to make a full statement without being interrupted by the other party. The other party is to listen carefully and make notes.

During the Opening Statements, the mediators should note areas of dispute and areas of agreement, the interaction of the disputants, the emotions that are expressed, the nature of the power relationships, and the parties' flexibility in considering options.

Often, strong emotions are expressed and experienced during an Opening Statement and the other party may be unable to resist interrupting. There are five strategies to use for interruptions:

1. Request that the parties not interrupt.
2. Turn your chair away from the interrupting party, or use other forms of body language to signal the person to stop.
3. Stop the proceedings and discuss the importance of and rationale behind non-interruption.
4. If the interruptions continue, caucus with the interrupter and re-emphasize the importance of both sides telling their story completely.
5. Ask the party to take careful notes of points to clarify, add to, or dispute.

### **PAUSING:**

Silence can be golden. Pauses can be pregnant. Don't be afraid to wait sometimes after a significant statement. Another may emerge.

### **DIRECTING THE PROCESS:**

The mediator is in charge of the process of the session, not the outcome. If one party talks a lot, encourage the other to speak up. If a topic is not being resolved successfully, move to another.



## CONFLICT AND COMMUNICATION

The shift from impasse to resolution is subtle, simple and profound, and consists of small shifts in conversation that are able to subtly move us from adversarial assumptions to more collaborative ones. The following are some examples of statements that can move us either in the direction of impasse or resolution:

### Statements of Impasse

### Statements of Resolution

"It's your fault."

"It's our problem."

"I didn't do it."

"I'm partly responsible."

"I demand..."

"I request..."

"You should..."

"Would you consider..."

"You should not have..."

"I would appreciate it if, in the future, you would not..."

"Here's what's wrong with you..."

"Here's how what you did affects me..."

"Who cares?"

"I want to hear your ideas."

"You are lazy."

"Could you give me a hand?"

"You never listen."

"What is it you think I am saying?"

"You are a \$%@^\$#!"

"What did I do that upset you?"

"You never... /You always..."

"I would appreciate it if you would do that more/less often."

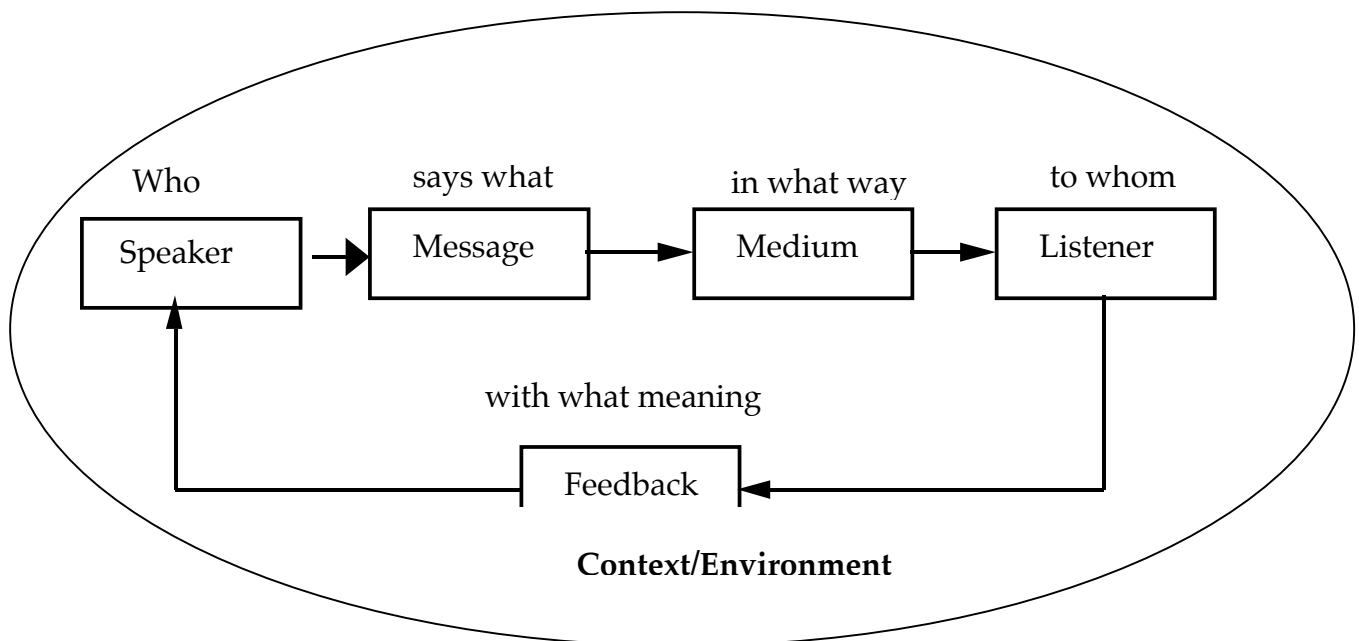
"Leave me alone."

"I'm getting confused. Could you give me a couple of minutes to get my thoughts together?"

## ELEMENTS OF COMMUNICATION

1. **Meaning:** In the absence of context, what is the meaning of what is being communicated?
2. **Intention:** What effect on the listener was intended by the speaker?
3. **Awareness:** What level of awareness of the communication is present in the listener?
4. **Understanding:** How much of what is being communicated does the listener understand?
5. **Acceptance:** Which parts of the communication are acceptable to the listener and which are not?
6. **Process:** How was the message communicated? What was the tone? What was the energy level?
7. **Context:** What is the context, structure or system within which the communication is made?
8. **Relationship:** What is the relationship between the speaker and the listener? What is their history? What do they expect in the future?

## OVERVIEW OF COMMUNICATION



## ALTERNATIVE WAYS OF LISTENING

Hearing vs. listening  
Listening at vs. listening with  
Listening for vs. listening to  
Listening in a role vs. listening as a person  
Listening passively vs. listening actively  
Listening guardedly vs. listening openly  
Listening sympathetically vs. listening empathetically  
Listening in order to vs. listening in order that  
Listening for facts vs. listening for feelings  
Listening individually vs. listening together  
Listening for commonalities vs. listening for differences  
Listening to words vs. listening for meanings  
Listening for problems vs. listening for solutions  
Involved listening vs. committed listening.

## EMPATHETIC LISTENING

Empathic listening requires a deep level of observation and listening. To create empathy through listening, one should watch, listen and feel for:

- Facts
- Subjective Experiences
- Interpretations
- Roles
- Modes of Perception
- Intentions
- Emotions and Feelings
- Interests and Positions
- Wishes and Desires
- Dreams and Visions
- Fears
- Humiliations
- Family Patterns
- Self-Esteem
- Defensiveness
- Resistance
- Denial
- Insults and Stereotypes of Others
- Metaphors
- Prejudices
- Openings to Dialogue and Negotiation
- Requests for Acknowledgement and Support
- Uniqueness
- Universality
- Cries for Help
- Desire for Forgiveness

## VARIETIES OF SPEAKING AND LISTENING

### Speaking

In the form of our speech, we chose between a variety of forms, including:

- **Explorations** ("Why...?")
- **Expressions** ("I feel...")
- **Assertions** ("This is what happened...")
- **Declarations** ("I am...")
- **Requests** ("Would you...")
- **Promises** ("I will...")

### Listening

When we listen, we do so in a variety of ways, including the following:

- **"Background" Listening** (As when someone asks for water and is brought a glass with water in it.)
- **Routine Listening** (As when we are not interested in details.)
- **Active Listening** (As when we care about the person.)
- **Creative Listening** (As when we are looking for solutions.)
- **Entrepreneurial Listening** (As when we are listening in an effort to create something new.)
- **Empathetic Listening** (As when we are listening as though we were the person who is speaking.)
- **Committed Listening** (As when we feel our lives depend on our listening.)

### **Non-Verbal Forms of Communication**

- |                                 |                                 |
|---------------------------------|---------------------------------|
| • Architecture and Use of Space | • Context                       |
| • Setting                       | • Ambiance and Aesthetics       |
| • Cultural Expectations         | • Organization of Space         |
| • Use of Time                   | • Distance and Orientation      |
| • Seating and Separation        | • Ownership and Territoriality  |
| • Facial Expressions            | • Eye Movements                 |
| • Gestures                      | • Posture                       |
| • Body Movements                | • Energy and Presence           |
| • Attitude                      | • Posture                       |
| • Balance                       | • Breathing                     |
| • Tone of Voice                 | • Loudness                      |
| • Pitch                         | • Pace and Rhythm of Speaking   |
| • Duration of Speaking          | • Quality of Voice              |
| • Modulation                    | • Articulation                  |
| • Pronunciation                 | • Silence and Use of Questions  |
| • Scent and Odor                | • Quality and Duration of Touch |

## FOUR DIFFERENT KINDS OF CONVERSATIONS

### 1. **Conversations About What Is Wrong:**

- Complaints, criticisms and condemnations of others;
- Rationalizations, justifications and denials about oneself;
- Descriptions of fault or blame and denials of responsibility;
- Hearsay, rumors, gossip and dramatic exaggeration;
- Efforts to get others to agree to support a “story”;
- Unsupported assumptions, expectations and judgments;
- Focus on a fixed past and a foreclosed future;
- Resignations, assertions of powerlessness and excuses.

### 2. **Conversations About What Is True:**

- Observations or descriptions by a “present” observer;
- Accurate descriptions & non-evaluative accounts;
- Supported assumptions and grounded assessments;
- Valid interpretations of reality;
- Acceptance of responsibility for mistakes;
- Acknowledgements, validations and feedback;
- Focus on the present, or on understanding the past;
- Evaluations of what worked and what it did or didn’t.

### 3. **Conversations About What Could Be:**

- Visions, wishes, goals and statements about interests;
- Declarations of what is feasible;
- Descriptions of opportunities, possibilities or choices;
- Creative statements that invent or design;
- Statements of shared values;
- Inquiries, explorations, imaginings, speculations;
- Focus on the future;
- Statements that create possibilities or openings.

### 1. **Conversations About What Will Happen:**

- Commitments to action;
- Descriptions of strategies and tactics;
- Offers, counter-offers, covenants and agreements;
- Statements about achieving, or causing outcomes or results;
- Initiations of something new;
- Statements of intention or commitment to action;
- Focus on the present as the place to begin creating a different future;
- Calls for partnership or joint action.

## PHRASES FOR MISCOMMUNICATION

<b>Ordering:</b>	"You must..." "You have to..." "You will..."
<b>Threatening:</b>	"If you don't..." "You'd better or else..." "You'll pay a big price..."
<b>Preaching:</b>	"It's only right that you should..." "You ought to..." "It's your duty..."
<b>Lecturing:</b>	"Here is why you're wrong..." "I'll tell you what happened..." "Don't you realize..."
<b>Interfering:</b>	"What you should do is..." "Here's how it should go..." "It would be best if you..."
<b>Judging:</b>	"You are argumentative... lazy..." "I know all about your problems..." "You'll never change..."
<b>Blaming:</b>	"It's all your fault." "You are the problem here."
<b>Accusing:</b>	"You lied to me." "You started this mess." "You won't listen..."
<b>Categorizing:</b>	"You always..." "Every time this happens you do the same thing..." "You never..."
<b>Excusing:</b>	"It's not so bad..." "It wasn't your problem..." "You'll feel better..."
<b>Personalizing:</b>	"You are mean..." "This is your personality..." "You are the problem..."
<b>Assuming:</b>	"If you really respected me, you would..." "I know exactly why this happened..."
<b>Diagnosing:</b>	"You're just trying to get attention..." "Your personal history is what caused this to happen..." "What you need is..."
<b>Prying:</b>	"When? How? What? Where? Who?" "What are you hiding?"
<b>Labeling:</b>	"You're being unrealistic...emotional...angry..." "This is typical of you..."
<b>Manipulating:</b>	"Don't you think you should..." "To really help you should..."
<b>Denying:</b>	"You did not..." "I am completely blameless..."
<b>Double Binding:</b>	"I want you to do it my way -- but do it however you want."
<b>Distracting:</b>	"That's nothing, listen to what happened to me..."

## PHRASES FOR RESPONSIVE LISTENING

- Encouraging:** "Please tell me more.", "I'm interested in what you are thinking and feeling." "I would like to know your reactions..."
- Clarifying:** "When did this happen?" "Who else was involved?" "What did it mean to you?"
- Acknowledging:** "I can see you feel really angry right about that." or "I can appreciate now why you feel that way."
- Normalizing:** "Many people feel the way you do..."
- Empathizing:** " I can understand why you feel strongly about this subject because I have experienced something similar in my own life." "I can appreciate why you might feel that way." "I understand."
- Soliciting:** "I would like your advice about how we might resolve this." "Can you tell me what you think should be done?" "Tell me more about what you want.", "What would you like to see happen?" "Why do you think that would work?"
- Mirroring:** "If someone says s/he feels "trapped", you can ask "What could I do that might open the way to a solution?"
- Agreeing:** "What I like about what you just said is ..." "I really agree with you about that. What I think we disagree about is..."
- Supplementing:** "Let me build on that and see if I am on the same track as you are..." "Let me support what you are saying with another point..." "Not only that, but..."
- Openly Inquiring:** "Why?" "What would you like to see happen?" "Why is that important to you?" "I'd like to ask a question about that." "How would you ..." "Help me understand why you ..."
- Reframing:** "If I understand correctly, you feel \_\_\_ when s/he \_\_\_\_, because \_\_\_\_\_. Is that right?"
- Responding:** "If I understand you correctly, you see the problem this way... Here is how I see it." "Would you like to know how I see it?"
- Summarizing:** "Let me see if I understand what you just said ... Is that correct?"
- Validating:** "I appreciate your willingness to raise these issues with me." "I learned a lot from what you said." "I know it took a lot for you to be as open as you were and I want to acknowledge you for taking that risk."

## RE-PHRASING OR RE-FRAMING

“Re-framing” means providing a new perspective on issues or giving a new slant to events or motivations. There are a number of ways of doing this:

1. **Emphasizing Agreement.** Throughout any heated discussion or conflict, it is important to emphasize agreements that have been made. Start by congratulating the other person on their agreement to discuss the issue with you. Emphasize your earlier points of agreement; e.g. “We haven’t resolved the main issue yet, but we have agreed on a number of points.”
2. **Positively Wording Issues in Conflict.** It is useful to restate issues positively so that they can be resolved; e.g. “We both seem to be very interested in establishing spending priorities.”
3. **Putting Aside the Negative.** Refocusing on issues that can be solved may be helpful; e.g. “Clearly you have been very upset by my anger. If I agreed to try to communicate more calmly in the future would you be willing to discuss the issues that are upsetting me?”
4. **Normalizing.** Helping the other person see that the way they are thinking, feeling, or acting is normal; e.g. “You must feel terrible. Many people feel like that in your situation.”
5. **Re-framing underlying intentions positively.** Focus on their desire to resolve the problem. Restate their position in a positive frame; e.g. “I know that we have been in conflict, but I also know by your coming to talk to me about it that you are interested in trying to resolve it.” If someone says, “You are being obnoxious,” you can suggest, “Would you like me to be more polite to you?”

Reframing is an extremely powerful method for clarifying communication and resolving conflicts created by miscommunication. It consists of finding a fresh word, phrase or statement that includes the content or meaning of what was said, and avoiding arguing over a mistaken impression that was created by a poor choice of words. For example, you can:

1. **Frame statements to express what you want from the other person, rather than judging that person’s attitude or behavior.**  
Worse: Let’s talk about your negative attitude to anything I propose.  
Better: Let’s talk about how we should evaluate our proposals.
2. **Frame issues so they cannot be answered with a “yes” or “no”.**  
Worse: I want three weeks vacation.  
Better: Let’s talk about how many weeks I can have for vacation. I think I deserve three weeks, for the following reasons.
3. **Frame problems as questions or issues, rather than as statements of opinion.**  
Worse: “We should...” or “We have to...”  
Better: “How can we ...?” or “What can we do to ...?”
4. **Frame issues so that multiple solutions are possible.**  
Worse: “I’m going to use the car.”  
Better: “Let’s talk about who is going to use the car and how we are going to solve all of our transportation needs.”



5. **Separate issues or problems from people, and depersonalize the issue or problem.**  
 Worse: "John is dominating the meeting."  
 Better: "Can we create a process so everyone has a chance to speak?"
6. **Frame issue so that they are joint problems.**  
 Worse: "I was never told about these policy changes."  
 Better: "How can we improve the way we inform people when there are policy changes?"
7. **Frame issues in terms of future relationships rather than past guilt or innocence.**  
 Worse: "Whose fault is it?"  
 Better: "How can we solve the problem?"
8. **Frame issues so that they are within the area where the person has authority and resources to make a decision and implement it .**  
 Worse: "Your company screwed me."  
 Better: "What can you do to help me out?"
9. **Frame issues in a manner that does not threaten anyone's sense of self-esteem or dignity.**  
 Worse: "You are really insensitive to other people."  
 Better: "Can I give you some feedback about how I see you respond to people?"
10. **Frame issues in an objective and neutral manner.**  
 Worse: "That is a really dumb idea."  
 Better: "What were you trying to accomplish through your proposal? Can I suggest another way you could achieve the same result?"
11. **Frame issues in specific terms.**  
 Worse: "I don't like your proposal."  
 Better: "What I don't like in your proposal is that you suggest..."
12. **Fractionate broader issues into more easily handled sub-issues.**  
 Worse: "Let's talk about our relationship."  
 Better: "Let's talk about the way we express our anger."
13. **Frame issues so as to encourage creative problem solving.**  
 Worse: "This place is really screwed up."  
 Better: "Let's identify what all the problems are and then look for solutions."
14. **Ask the listener to confirm that you framed the problem accurately.**  
 Worse: "What you are really saying is ..."  
 Better: "Is what I said accurate? Is that what you are saying?"

(Some ideas drawn from Howard Gadlin)

## PRONOUNS AND CONFLICT RESOLUTION

<b>Pronoun</b>	<b>Form of Communication</b>	<b>Predictable Result</b>
<i>They</i> [Example: They are lazy and irresponsible.]	Stereotype	Prejudice
<i>You</i> [Example: You are lazy and irresponsible.]	Accusation	Counter-Accusation/ Denial
<i>He, She</i> [Example: He/She is lazy and irresponsible.]	Demonization/ Victimization	Blame and Shame/ Disempowerment
<i>It</i> [Example: There is a lot of work here – how shall we divide it so we pull our own weight?]	Objectification	Problem Solving
<i>I</i> [Example: I feel overworked and would like to take time off but won't let myself and am jealous when you do. / Could you give me a hand with this?]	Confession/ Request	Listening/ Responsiveness
<i>We</i> [Example: We haven't been clear about how to share our joint responsibilities. How would you suggest we share them?/How can we work together to complete them?]	Partnership/ Collaboration	Consensus/ Ownership

## SYNTAX AND CONFLICT

The sentences we use in conflict are generally structured as follows:

PRONOUN + VERB + ACCUSATION (JUDGMENT)

These can be elaborated into:

“THEY/HE OR SHE/YOU” + “DID/ARE” + ACCUSATION

The accusation portion of the sentence can be broken down into 3 or 4 distinct components, revealing several potential interventions:

1. AN INDIRECT NEGATIVE STATEMENT OF INTERESTS
2. AN INDIRECT NEGATIVE EMOTIONAL COMMUNICATION
3. A DEEP-SEATED RELATIONAL FEAR
4. A DEEP-SEATED SELF-DOUBT

When we use sentences that consist of:

“THEY/HE OR SHE/YOU” + “DID/ARE” + ACCUSATION

these will take the form of stereotyping and pre-judgment, or demonization and victimization, and will predictably produce these following “fight or flight” responses in the other party:

DENIAL, DEFENSE, and COUNTER-ATTACK

These can be expressed symbolically as:

P + A → [] (DENIAL), || (DEFENSE) and ▾ (COUNTER-ATTACK)

An example of the use of conflict syntax might be:

“THEY/HE OR SHE/YOU” + “ARE” + “LAZY”

This accusation will typically result in the following responses:

1. Denial: *“I don’t know what you’re talking about.”*
2. Defense: *“No I’m not.”*
3. Counter-Attack: *“You’re up-tight/a slave-driver/bossy!”*

This accusation can be broken down into three distinct components:

1. A Negative Statement of Interests: *“I am working hard and need some help.”*
2. A Negative Emotional Communication: *“I’m sad/angry/frustrated that you don’t care about my needs.”*
3. A Deep-Seated Relational Fear: *“You don’t respect/like/love me.”*
4. A Deprecatory Self-Judgment: *“I am a failure/unlikable/unlovable.”*

These conflict responses typically communicate the following emotionally charged messages to the other person:

1. Rejection: *“Go away/Leave me alone/Back off!”*
2. Blaming: *“It’s your fault.”*

3. Shaming: *"You are bad/wrong/no good."*
4. Self-Defense: *"Don't punish me, punish him/her."*
5. Pain: *"You hurt my feelings."*
6. Fear: *"I don't respect/like/love you."*
7. Sadness, Grief and Loss: *"I wish it were different/miss you."*
8. Desire: *"I want to have a better relationship with you."*
9. Confession: *"Because of these responses I am emotionally vulnerable to your responses/behaviors and wish you could be different."*
10. Wish/Request: *"Please stop/start acting differently."*

Conflict sentences can be profoundly altered in the following ways:

1. Substitute It, I or We for They, You or S/He as the pronoun
2. Convert judgments into descriptions of behaviors
3. Turn accusations into expressions of interests and emotions
4. Reframe from negative to positive emotions
5. Convert statements into questions
6. Present interests as confessions or requests
7. Shift from power- or rights- to interest-based decision making
8. Offer reassurances in response to relational fears
9. Acknowledge positives to oppose deprecatory self-judgments

If the accusation is *"You are lazy,"* the parties can transform their conflict at the level of syntax and language, in the following ways:

1. Substitute It/I/We As the Pronoun: *"The work isn't divided fairly." "I wish I could take more time off." "We need to agree on a fair division of the work. What would work best for you?"*
2. Convert Judgments into Behaviors: *"I feel sad and angry when you don't help out when I ask because I think it means you don't respect me."*
3. Turn Accusations Into Interests and Emotions: *"I need help." And: "I'm getting upset because I asked for help and you didn't respond."*
4. Reframe From Negative To Positive Emotional Phrases: *"I want to work with you and want both of us to feel supported."*
5. Convert Statements Into Questions: *"Why didn't you help out when I asked?" "How would you like me to ask you in the future?"*
6. Present Interests as Requests: *"Can you give me a hand?"*
7. Shift from power- or rights- to interest-based decision making: *"How would you like to divide the work?"*
8. Offer reassurances and acknowledgements: *"I would love to do this together." "You were great! Thanks!"*

## 10 REASONS FOR NOT COMMUNICATING HONESTLY

In spite of these risks, the greatest danger in delivering feedback does not arise from inaccuracy or subjectivity but from a reluctance to be honest. Some people have no difficulty delivering honest feedback, while others are more committed to politeness than to honesty. Some people are timid, quiet, or insecure, or have to be pushed into saying what they think, or have learned that it's best to keep their mouths shut. Some say: "Yes, things are great," when they are actually suffering or have problems that could be cured through feedback and critical insight. Some are simply afraid of communicating honestly.

Feedback is most effective when those delivering it are willing to be open, honest, and egalitarian in communicating what they actually think and feel. Doing so is dangerous, because it means running the risk of being disliked. Most of us want to be liked more than we want to be honest and lack the skills, empathy, or relational intimacy needed to deliver critical information without triggering defensiveness and resistance in others. Here are ten reasons people commonly cite for *not* communicating honestly:

1. We don't want to hurt their feelings.
2. They will misinterpret what we say.
3. They won't be receptive.
4. It will put our friendship at risk.
5. We will be open to retaliation or counterattack.
6. There's nothing in it for us.
7. It could backfire and the problem could get worse.
8. It could escalate and we don't like conflict.
9. We'll be out on a limb and won't be supported.
10. Nothing will change anyway.

Each of these reasons undermines integrity, saps self-confidence, and lessens our commitment to improvement and making a difference. Each reduces respect for the maturity and intelligence of others and renders feedback useless. Each can be countered.

## 10 REASONS FOR COMMUNICATING HONESTLY

1. It is possible to communicate honestly without hurting anyone's feelings.
2. We can communicate accurately so there is no misinterpretation.
3. They can't be receptive unless we try.
4. Without honesty, we can't have a genuine friendship.
5. If we act collaboratively, they won't respond defensively.
6. We increase self-esteem and opportunities for change through honest communication.
7. The problem will get worse if we don't communicate honestly. If we succeed, we won't have to be bothered by it any more.
8. If it escalates, we can use mediation to minimize and resolve the conflict.
9. If we risk being honest, others may take that risk also.
10. Things change when people communicate honestly with each other.

When we retreat from honest feedback, water it down, or make it useless, we cheat others out of any possibility of learning, turning their lives around, and becoming more skillful and successful. What is at stake in our honesty is both *their* opportunity to become better at what they do and *our* opportunity to act with integrity. If we communicate our feelings of love or friendship or sympathy, we can tell someone the truth in ways that allow them to learn.

## CONFLICT AND STORYTELLING

“Each word strikes an emotional key.” --Wittgenstein

What are stories? From the point of view of parties in conflict, stories are an effort to mend the fabric of perceived reality, to create a consistent version of different, even contradictory information. When significant conflicts happen in our lives, we create stories to encompass them, stories that define and limit the chaos of what was possible, both in ourselves and in others.

The subconscious mind does not distinguish between metaphor and reality, between what is real and what is deeply imagined, whether as wish or fear. We continuously manufacture and process our reality (or realities) as stories we tell ourselves and others to make the world consistent with our attitudes, to justify our feelings, beliefs and actions. We “create” the world in our self-image through stories.

The conflict story begins with an objective act, which is then filtered through perception, molded by culture, distorted by emotion, matched with pre-existing ideas made consistent with self-concept, and censored by personal paradigms to such an extent as to make it unrecognizable to the other party to the conflict. The conflict is re-made in the image of its participants and removed from its material sources through the antagonistic ideological relationship between the parties’ stories, which in most cases take the place of the original dispute.

Stories told by parties in conflict differ radically from those told in resolution. These “conflict stories” have several important subjective elements or tendencies that increase with the frequency of the telling:

- The storyteller is a victim who is more acted upon than acting.
- The other party is the creator, initiator or cause of the conflict.
- Whatever the storyteller did is related as rational and just.
- Whatever the other party did appears irrational and unjust.
- The symbolic and metaphoric content of the story points to its real meaning to the teller.
- The story that is told collapses all other perceptions, possibilities and versions into one. It appears to exclude all other stories.
- All stories about conflict are metaphorically true.
- The stories people tell create their lives. As they tell the story, it happens.
- Stories are rituals designed to comfort the teller with their familiarity.
- The more the story is repeated, the more it is believed to be true. As Lewis Carroll had it: “I’ve said it once, I’ve said it twice, I’ve said it thrice--it must be true!”
- The central purpose of conflict stories is to maintain the self-image and self-esteem of the storyteller.
- Conflict stories merge emotionally charged symbols with action and events so that it is nearly impossible to separate them.
- Stories help fulfill wishes or dreams, or explain why they failed to occur.

- Conflict stories are organized around a central unstated myth about the other, which is subconsciously perceived to be only partially true.
- Conflict stories link together perceived facts to favor the teller. Inconsistent facts are denied, dismissed or disconnected from the story.
- Most conflict stories reveal in their imagery and language a set of emotional assumptions that have more to do with the conflict than the story itself.
- Most of the stories we tell ourselves about ourselves are compensatory, revealing in their satisfaction the existence of an underlying need.
- Most of the stories we tell ourselves about others are relational, creating others as a way of creating ourselves through our relationship with them.
- Thus, even the stories we tell about others often end up being about ourselves, about what we admire in others because we lack it in ourselves, or what we dislike in others because we reject it, yet are simultaneously drawn in to ourselves.
- Stories create listening and a powerful bond with the listener, even when the listener is an opponent or adversary.

Storytelling creates a feeling of participation in the event, a deep willingness to listen, and a feeling of empathy or community among the listeners which can be accentuated in mediation by summarization and reframing, and by the mediator's use of parable, ritual, symbolism, metaphor, and ceremony to create a common, agreed-upon version which ends in resolution. The mediator tries to help each party tell his or her story in such a way as not to exclude the other party's version, and to encourage listening and empathy as a way of bonding or connecting with both the story and its teller. Forgiveness can be seen as the creation through listening, completion and a common understanding of the classic ending "and they all lived happily ever after."

Conflict resolution can be seen as the successful creation of a composite story made up of the essential elements in each party's version of what happened without unnecessary demonization of the other party or victimization of the original teller.. It can also be seen as the opening of a private narrative to an alternative collective interpretation. In mediation, two stories are often better than one, since by combining different perspectives an average or synthesis may emerge which can be richer, more detailed, fairer and more "true" than either of the individual stories standing alone.

Stories reveal a natural self-regulating structure that usually includes a resolution of the underlying conflict. One view of conflict stories is that their central purpose is to justify a particular outcome . Where evil exists, the use of force is justified. These might be referred to as "positional" as opposed to "interest based" stories. The most common and heroic resolutions are:

1. Victory over external enemies, vanquishing one's foes, triumphing over evil; and/or,
2. Victory over oneself, over weakness and temptation, selfishness, anger and ego.

The location of the "enemy" or problem as external or internal is critical in resolving conflict. For the most part, we choose our enemies. We participate in bringing them into existence, perfect them, and empower them in order to become what we could not

be without them: victims, heroes, irresponsible, guilt-free, justified in acting the way we want, inflictors of pain, sufferers, powerful, powerless, etc..

There is a political element in certain forms of storytelling. Stories told in justification of racial, sexual, religious and other forms of intolerance or inequity create entire populations as enemies, mythologizing and sentimentalizing hierarchical and dominating relationships, falsifying and stereotyping the “enemy within”, using the tension created by unresolved conflict to justify the suppression of rights, and fear of the enemy to create conformity and de-politicize public life.

Creation of the other-as-enemy requires the suppression of empathy, and therefore the subtraction of logic and rationality from stories about their behavior. The reconstitution of empathy, or creation of the other-as-self is thus a political act since it reduces the potential for demonization and domination.

Conflict stories are, however, inherently ambiguous. They are political in the sense that they are about power, and apolitical in that they are removed from action. They are concerned with actions that have already taken place and are therefore historical, yet take place outside history and are therefore ahistorical. They are literal in that their meanings are found in what is said, and nonliteral since their meanings also lie in what is implied, or what is not said..

In addition to the text of a story, there is also a sub-text. Beyond meaning, there is “meta” meaning, a symbolic message that is also communicated. The subtext of the story also needs to be examined, for at least the following reasons:

- The most important part of any communication is not what is said, but what is meant.
- The same communication may have different, or even opposite meanings for different people.
- Meanings are established both by the intention (sometimes unconscious) of the speaker, and the interpretation of the listener.
- The speaker and the listener form a system, which creates the story.
- The same story may be interpreted differently by the same person based on his or her emotional state at the time it is heard.
- Most meanings are ambiguous, uncertain, and overdetermined, or susceptible to more than one interpretation.
- The greater the ambiguity in the story, the greater the potential gap between the storyteller’s intention and the potential interpretation, or effect on the listener.
- Intention can be communicated actively (i.e., through words, tone of voice) and passively (i.e., through body language, facial expression). The form of communication often communicates meaning more accurately than the words used.
- Ambiguity produces both agreement and disagreement.
- Metaphors, symbols, myths, parables, and rituals invest ambiguity with meaning, creating a possibility of unity even where there is disagreement, where everyone is entitled to their own interpretation.



- For a conflict story to be resolved, its hidden or symbolic meanings need to be identified. What is in dispute means something different to each person. How? Why?
- What requires resolution is less the conflict between words than the meanings different parties find in the same words.
- All words may have hidden or emotional meanings that become more powerful the less they are revealed.
- The final purpose of all stories is to create a suitable ending, and thus to complete the conflict. This purpose can often be found by reversing the most powerful metaphors or symbols contained in the story.

Let us take, as an example, a simple story of conflict, one that is viewed by many as the first story of conflict. In Genesis, God asks: "Adam, has thou eaten of the fruit of the tree whereof I told thee thou shouldst not eat?" To which Adam replies: "The woman you gave me, she tempted me and I did eat." God then propounds the same question to Eve, who answers: "The serpent, he beguiled me."

One can imagine the stories each one told about the other before the advent of mediation:

- Adam: Why should I suffer? You're the one who's at fault, you and that damn snake. You tricked me.
- Eve: There you goes again, blaming someone else. You chose, didn't you? I didn't force you to eat it. Besides, you never warned me about the snake.
- Adam: You're too impulsive, too gullible.
- Eve: You're in denial. You refuse to take responsibility for your own mistakes.
- Adam: My biggest mistake was listening to you .
- Eve: You can go to hell.

The problem with each of these versions is that they accept (post-apple) that their behavior is either good or evil, when it is plain that they were set up, that the Omniscient All-Seeing Creator knew in advance that His only prohibition would be violated. Why else would there have been a tree of knowledge in the Garden, other than to be ingested? Why create a being endowed with curiosity, other than to encourage discovery? Why forbid its fruit, other than to focus attention and temptation in its direction?

By this reading, it was not God, but Adam and Eve who expelled themselves from the garden through recrimination and blaming. Perhaps if Adam had answered: "yes, and it was delicious," all would have been different.

Adam even tries to shift the blame to God, as in "the woman you gave me". Alternatively, Adam (or Eve) might have taken responsibility for their actions and said: "It was my temptation, it was I who gave in, it was my choice." Yet with knowledge came ignorance, and with good and evil, amorality. Denial of responsibility and blaming others go hand in hand. An alternate story they might have agreed on could go as follows:

God didn't warn either of us about the snake, or about the desire He placed within us to taste forbidden fruit. There's no sense in blaming the snake, each

other, or ourselves for what happened. Instead of focusing on the past and blaming someone, we should concentrate on the future and how we can work together in harmony with the snake (i.e., Nature) to get what we want. We can't make God responsible for our actions, but need to be responsible for ourselves. I apologize to you for trying to shift the blame onto you, and to myself for being dishonest and feeling guilty about something that is no anyone's fault. A little knowledge can be a dangerous thing, and the more I learn about good and evil, the falser they become and the closer we get to Eden. Want another apple?

If we look beyond the text to the sub-text, and the hidden meanings of this story, several strands emerge.

First, there is an abundance of sexual imagery and ideation, from the snake to the forbidden fruit, to "temptation," and the clearly incestuous brother/sister, husband/wife relationship of Eve and Adam. Translated into sexual terms, the story might be told differently:

Eve, unable to resist her attraction to the externalized symbol of Adam's sexuality (the snake) and beguiled by lust, tasted the forbidden fruit of incestuous desire, with which she tempted Adam, who also succumbed.

Alternately, the story can be read as a projection based on men's fear of women's sexuality.

A second set of meanings finds the story symbolic of intellectual awakening, of discovery and knowledge. It is not so much good and evil themselves, but the distinction and opposition between them that symbolize other oppositions, as between objective and subjective, rich and poor, powerful and powerless, true and false. The state of Eden is representative of a unity that unites these polar opposites.

A third set of meanings focus on the spiritual loss, on the severance of intimate connection with our own god-nature and with nature in general. In considering the fruit of knowledge, emphasis might be placed on the word "knowledge", as distinct from "awareness", "understanding" or "wisdom".

A fourth set of meanings might be drawn from the punishment meted out to Adam and Eve, their expulsion from paradise as symbolizing the rise of rules and with them, rule-breaking and punishment. Expulsion from the garden and consensus symbolizes the rise of a punitive and coercive state, which supplanted communal civil society.

Each word in the story contains additional meanings that extend far beyond the literal text, and we could continue to add meanings for some time to those that have been mentioned without exhausting the possibilities.

What mediation offers as an aid to interpretation is a set of understandings about these alternative meanings, including the following:

1. All stories and interpretations are potentially true, though none is absolutely true. In other words there are degrees and varieties of truth and all metaphoric truths are relative to the observer.
2. If the meaning is believed, that makes it true, and to the extent that it is believed. Or rather, believing and truth are the same for the listener.
3. A deeper level of meaning is one, which arises when we ask why the story is being told. What are we trying to convince ourselves of by telling this story?

Our own innate goodness? Our lack of self-control? Our suffering? Our innocence? Or our guilt?

4. Another layer of meaning is derived by looking at who the story is told to. For example, if the Adam and Eve story is told by a parent to a child, the message is clear: "Obey the rules or you will be punished and lose my affection and protection."
5. As between any two stories, a synthesis can be created which is also true. For example:  
A's Version: "You said we could go to the movies."  
B's Version: "No I didn't. I said you had to mow the lawn."  
Synthesis: A wants to go to the movies. B wants A to mow the lawn.  
A can mow the lawn, then go to the movies with B.

Notice that the synthesis does not answer the question of whether B actually said they could go to the movies. This is because proving the "truth" of this statement is instrumental and pointless, as A cares more about seeing the movie than about being correct. By going to the deeper meaning of A's story it becomes possible for A's interests to be satisfied without excluding B's. Notice also that the key elements of both stories survive in the synthesis, and that a false dichotomy has been replaced by a unity of intention and action. A set of hidden false assumptions ("If I let A go to the movie the lawn won't get mowed."/"If I mow the lawn I won't be able to go to the movie.") has been revealed and resolved in the new story.

In each story the other side has been de-villainized and made legitimate and whole again, permitting the story to end with a "happily ever after." Any conflict story that refuses to admit elements of the other side's story contains a deeper story that may need to be processed first before resolution will become possible.

For example, notice that the story implies an element of unequal power and responsibility in the relationship between A and B, and a set of potential sources of conflict which stem from this relationship which may be an underlying or real cause of the dispute. A resolution that simply involves going to the movies may settle the presenting dispute without allowing the parties to surface and resolve what is really bothering them. Thus:

Deeper Synthesis: A really wants acknowledgement and acceptance from B. B really wants A's help around the house and willingness to accept responsibility. B thanks A for pitching in and asks to go to the movies with her. A agrees that she should take more responsibility for household chores and volunteers to take on a job B has not assigned.

Storytelling creates the listener; it elicits through sympathetic vibration, an empathic discovery of what it must feel like to live the story. At the same time, the storyteller encourages the listener to respond supportively, and may try to manipulate, win over, or hypnotize the listener, to defend against less flattering stories.

One purpose of a story is to enable the teller to construct a safe version of reality through causal connection, one that allows the tellers to feel good about themselves, or less anxious about the world, or that permits them to function in a way they perceive as necessary. The listener may be active or passive, supportive or reflective, sympathetic or empathetic, involved or committed. Janet Rivkin and Sara Cobb have looked at conflict stories from the perspective of plot, character and themes, which are

rehearsed and improved on based on the listener's response. Mediators, on the other hand, listen for "access points", places where meaning can be shifted.

A great part of religious literature consists of instructive stories, moral lessons taught through the device of personal narrative. An example is given by Ira Progroff, in which a rabbi listens to two families tell stories about how the other family was wrong and had mistreated them. The rabbi responded

"...by telling them how interesting he had found their stories. while he was listening to them, he could not help thinking also of the situation of the Children of Israel when they were in bondage in the land of Egypt. They also had many arguments there, not only with Pharoah and their Egyptian taskmasters, but arguments among themselves as well. He was reminded of this particularly, he said, because the time of the year was nigh when they would be called upon to remember and celebrate the events in Egypt. He could not help thinking, as they were talking of the holy days of the Passover season soon to come

The rabbi then went on to describe to them the thought that had come to his mind while each of them had been stating his case. He had thought of Moses as an infant alone in the rushes of the Nile with his sister Miriam anxiously watching him from the shore. He had thought of the miracle that had made a place for the slave-born baby in the house of Pharaoh's daughter and of the blessing that had followed him when he had left Egypt in exile. He had thought of the burning bush and the word of God calling Moses, the miracles of Egypt and the deliverance, the struggles, the wanderings in the wilderness, the promised land, and the prophecies which they were even now fulfilling in their dispersion among the peoples of the earth.

When the rabbi had finished talking, they ... thanked him for having spoken to them and for having solved their difficulty with such sagacity. All the members of the families then shook hands with one another, blessed each other, and wished each other health, long life, and a fortunate year. Then they departed, well content with the wondrous wisdom by which their dispute had been settled.

If marriage can be seen as two individual stories creating a third that is told by both, divorce can be seen as the surrender, or even the death of a common story line, a common plot, predictable characters, etc. The marriage story, like the rabbi's story, is to some extent simply an expression of togetherness, of connection, trust and belonging. It is the verbal form that is assumed by relationship. In divorce, each partner struggles to create their own individual stories, but find it impossible to convince or reach each other with them.

Mediation provides the parties with an opportunity for full and satisfying story telling, for a deeper level of listening than is possible in the midst of the conflict, for validating both stories and storytellers, for surfacing the sub-texts and hidden meanings contained in the story, for reframing or retelling the story in such a way as to encourage listening, for expanding the range of possibilities contained within it, for revealing the deeper interests of both parties, and for synthesizing and combining both versions so as not to exclude the essential elements of either.

The narrative structure of any completed story includes resolution. Our culture contains many stories of triumph over others, but few pointing to mutual gain. Our

ideas of resolution and victory are more solitary than collective, more competitive than cooperative. But when we understand that the true struggle is within ourselves, and in our refusal to dehumanize our enemies, we can create a new understanding: that no one needs to lose when someone else triumphs, and that a greater victory is achieved when it ends in no one's defeat.

Stories encourage communication and promote community. Their object is to bring people together through imagination and empathy. They are a device for learning and a means of play. They are also a bridge permitting forgiveness and reconciliation to cross the invisible lines we create to defend ourselves against those we chose to treat as enemies. With mediation and a better understanding of the dynamics of conflict storytelling, a myriad of seemingly endless stories of adversarial contest can be retold to include resolution and a happy ending. Perhaps you will be one of the tellers.

### **STORIES AS ACCUSATIONS, CONFESSIONS AND REQUESTS**

While conflict stories are usually heard as assertions of facts or feelings, they can also be heard as *confessions* of vulnerability, or *requests* to the listener to do something, if only by offering sympathy, alliance, or advice. The accusation that forms the core of the story is intended to

- draw the listener into a close, sympathetic relationship with the storyteller, and a distanced, antagonistic one with the opponent;
- describe, rationalize, and reinforce the tensions that separate them;
- counter-balance or equalize the perceived power of the opponent while justifying the storyteller in failing to communicate more effectively or work harder to resolve the dispute. In these ways, conflict stories indirectly discourage their own resolution.

Conflict stories are also acknowledgments of feeling discouraged, cries for help, confessions of powerlessness, and requests for forgiveness. The cunning or depravity of the opponent is simply the flip side of the storyteller's own powerlessness, pain, sadness, and frustration. Because people feel powerless in conflict, they seek comforting explanations, justifications for their failure to do more, and rationalizations for their adversarial reactions. When they experience pain at the hands of others, they are drawn to ask what could possibly motivate someone to harm them. If they want others to respect them as decent people who do not deserve this kind of treatment, they are drawn to characterize their opponents as wicked, malicious people who intend harm for no good reason, which explains why the storyteller could do nothing to prevent or resolve it.

In these ways, conflict stories "dress up" the facts regarding upsetting events, yet in so doing, they create signposts pointing inward to the hidden sources of conflict within the storyteller. Each story directs the listener's attention outward toward what the perpetrator did, partly out of a desire to minimize or deny the storyteller's own complicity, fear of confrontation, or wish to prevent future attacks through the deterrent of a well-timed counter-attack. The perpetrator's perfidy is magnified in proportion to the storyteller's desire to appear innocent. In these ways, conflict stories "protest too much."

## TRANSFORMING THE STORY

1. Summarize what is true and useful in each party's story, leaving out the portions that demonize or victimize the other party;
2. Ask each party to write their own story, then the other person's story, and then combine them;
3. Ask them to tell a story that is positive and acknowledging;
4. Ask them to change the pronoun in their story from he or she to I or we;
5. Ask each party to clarify the context in which their story occurred;
6. Offer a contrary, empowering interpretation, i.e., if the person says "I was frightened," you say "You were brave." Or if they say "I am so angry," you say "You must care a lot";
7. Clarify expectations. Ask: "What did you want him to say?"
8. Identify the hidden judgments in the story;
9. Map the evolution of the conflict, identifying steps 1, 2, 3, etc.;
10. Ask the parties to correct the conflict step by step;
11. Ask the parties to compare the cultural influences on their perceptions and responses to each others stories;
12. Contrast their stories with what they want to achieve, with their goals;
13. Ask them to jointly or separately investigate their factual assumptions;
14. Identify the gaps in their stories. Ask them what was left out?
15. Reveal their assumptions about causation and suggest a joint need to improve skills and responsibility for outcomes;
16. Identify the larger systems, processes and conditions that impact their story, i.e., the absence of peer mediation, gender inequalities, etc., and extend the mediation to include the field" in which the conflict took place;
17. Clarify the "ghost roles" including organizational policies and procedures, parents, people who are apathetic;
18. Clarify the *meaning* of the story to each party;
19. Separate facts from interpretations;
20. Create a third story without demonization or victimization.

## STEP III: ACKNOWLEDGE THE EMOTIONS

### EMOTIONAL LITERACY FOR MEDIATORS

by Eileen Barker

You don't have to be a mediator to know that emotional issues lie at the heart of conflict. As Bernard Mayer points out, "emotions are the energy that fuel conflict," but they can also be the "key to de-escalating it." The ability to deal skillfully with emotions can be essential to finding lasting resolution. Yet emotions are often overlooked, feared, avoided and misunderstood by mediators, parties and attorneys. As mediators, we need to become adept at recognizing, understanding and addressing emotional issues. We need to become *emotionally literate*, fluent in the emotional language of conflict.

Conflict arises from unmet human needs, and the emotions that are closely linked to those needs. Emotions are often under the surface, but they are always in play. Much information about the parties' relationship can be gleaned from astute observation of the emotional context of the conflict. In some cases, what parties want most is the chance to feel heard, and although a written agreement is a central part of most settlements, it may be less important to the parties than the emotional satisfaction of having their needs and feelings understood.

Emotional literacy enables the mediator to assess the parties' emotional states and find a balanced and constructive way of dealing with them. It challenges her to walk the fine line between emotional expression that is useful on the one hand, and detrimental on the other. Mayer astutely writes: "The art of dealing with conflict often lies in finding the narrow path between useful expression of emotions and destructive polarization." Indeed, it is most likely the fear of destructive polarization that causes mediators to avoid the emotional dimension in the first place.

Not only must mediators walk the "narrow path," they must do so in a culture that is largely ignorant of, and frequently hostile toward, emotional expression. When a mediator mentions feelings, he may well be met with skepticism ("I didn't come here for therapy") or derision ("too touchy-feely"). Attorneys will often squirm in their seats, ask what possible relevance emotions could have to the dispute, and urge that the discussion be refocused elsewhere.

In the face of this, the mediator's challenge is to become not only emotionally literate, but deft. In a recent survey, mediation trainers rated addressing emotional issues as generally *more* important than addressing substantive issues in a mediation session. This suggests that failure to adequately address the emotional issues can result in ineffective mediation. Close to half those surveyed, including two thirds of the most experienced mediators thought mediation training does not sufficiently teach mediators how to address the parties' emotional reactions.

#### **Emotional Awareness**

So how *can* mediators address the parties' emotions in an effective way? What often stands in the way of emotional literacy is our own habit of recoiling when faced with strong feelings, both in ourselves and in others. Why do we tend to resist, deny or avoid dealing with feelings? The answer lies in our own relationship with emotion.

Many of us are more comfortable in the realm of the intellect, the black and white world of logic. We find emotions difficult terrain, a foreign and elusive language. As Kenneth Cloke observes, emotions are multi-layered and difficult to label: "Grief and pain are often masked by anger, as fear of loss is masked by denial. This makes it necessary to search beneath the surface of these volatile emotions for deeper truth."

Daniel Goleman, in his groundbreaking book *Emotional Intelligence*, says that the foundation of emotional intelligence is self-awareness. He uses this term to mean "an ongoing attention to one's internal states", or the ability to monitor one's feelings from moment to moment.

Thus, to gain emotional literacy, the mediator must begin to understand her own internal states, and develop greater comfort and skill in this area. A useful starting place in gaining greater awareness is self-assessment. Try answering these questions:

- Are you aware of what you are feeling moment to moment?
- What are your beliefs about emotion?
- Which feelings are okay for you to have and express, and which are not?
- What is your family history with emotional expression?
- What cultural and gender-based messages have influenced your emotional expression?

Stone, Patton and Heen, authors of *Difficult Conversations*, refer to this as the "emotional footprint" and state: "Exploring the contours of your footprint across a variety of relationships can be extremely helpful in raising your awareness of what you are feeling and why."

The attitudes and beliefs that make up our unique emotional footprint are formed in early childhood and are deeply ingrained. We need to explore where our forbidden territory lies, and what behaviors and emotions cause us to contract or recoil. Only when we understand the way in which *we* relate to emotions, and embrace the richness of emotion, can we begin effectively to support others.

### **Addressing Emotional Issues in Mediation**

A moment often arises in mediation when the "real issue" emerges on the horizon. Even if it has not been spoken of or acknowledged, the emotional charge is palpable. It's a question away. Cloke describes this as a "dangerous" moment, a moment in "something fundamental could shift." The mediator must decide: whether to avoid or address the deeper issue.

This can be a profound choice, and there is no universal "right" answer. It may be wise to sidestep an emotional issue in one situation, and essential to address it in another. Mediators might ask themselves the following questions:

- Are you making a conscious decision at that moment, or are you reacting to the emotional charge in an unconscious way?
- Are you aware of the emotion looming on the horizon, or does it go unnoticed on your radar?
- Do you avoid addressing the emotion because of personal discomfort?
- Do you ignore the emotional energy because you are unsure whether or how to address it?



- Are you willing to allow parties to feel and express emotion when you sense that it would help them move forward? Are you willing to take the risk of moving into uncertain terrain?

Supporting appropriate emotional expression can be one of the keys to helping parties resolve conflict. It can create an opening, a willingness to let go of the conflict. It can open the door for movement and new possibilities. However, the mediator's comfort level with emotions will often dictate the level of emotional expression that is allowed, and thus, may limit or expand opportunities for resolution.

Conflict resolution has been described as requiring an advanced skill set. "In the realm of emotional intelligence, conflict management is a high-level skill that draws upon integrated use of several emotional competencies: self-awareness, self-regulation, empathy and social skill."

As mediators, we frequently sit in the middle of intense emotional crosscurrents. We must be able to allow the tension of conflict, without needing to suppress it or rush in to fix it. We must have the ability to empathize with strong emotions, such as grief and anger, and yet, somewhat paradoxically, also remain detached and objective. We must develop a tolerance, and better still, an appreciation, for emotional expression. In short, our work requires not only the development of emotional literacy, but ultimately emotional mastery.

## FAMILIES AND VARIETIES OF EMOTION

Our principle emotions are grouped in families, and range from mild to powerful in expression, as illustrated in the following examples:

1. **Anger:**  
From Irritation to Homicidal Rage
2. **Depression:**  
From Sadness to Grief
3. **Happiness:**  
From Joy to Rapture
4. **Fear:**  
From Anxiety to Paralysis
5. **Shame:**  
From Embarrassment to Humiliation
6. **Love:**  
From Infatuation to Passion
7. **Hatred:**  
From Dislike to Loathing

## BUILDING BRIDGES BETWEEN PSYCHOLOGY AND CONFLICT RESOLUTION: IMPLICATIONS FOR MEDIATOR LEARNING

Over the last three decades, hundreds of thousands of people around the world have been trained in community, divorce, family, commercial, organizational, and workplace mediation, as well as in allied conflict resolution skills such as collaborative negotiation, group facilitation, public dialogue, restorative justice, victim-offender mediation, ombudsmanship, collaborative law, consensus decision making, creative problem solving, prejudice reduction and bias awareness, conflict resolution systems design, and dozens of associated practices.

Among the most important and powerful of these skills are a number of core ideas and interventions that originate in psychology, particularly in what is commonly known as "brief therapy," where the border separating conflict resolution from psychological intervention has become indistinct, and in many places blurred beyond recognition. Examples of the positive consequences of blurring this line can be found in recent discoveries in neurophysiology, "emotional intelligence," and solution-focused approaches to conflict resolution.

While it is, of course, both necessary and vital that we recognize the key differences between the professions of psychology and conflict resolution, it is *more* necessary and vital, especially in these times, that we recognize their essential similarities, collaborate in developing creative new techniques, and invite them to learn as much as they can from each other.

Beyond this, I believe it is increasingly important for us to *consciously* generate a fertile, collaborative space between them; discourage the tendency to jealously guard protected territory; and oppose efforts to create new forms of private property in techniques that reduce hostility and relieve suffering.

It is therefore critical that we think carefully and strategically about how best to translate a deeper understanding of the emotional and neurophysiological underpinnings of conflict and resolution processes into practical, hands-on mediation techniques; that we explore the evolving relationship between mediation and psychology, and other professions as well; and that we translate that understanding into improved ways of helping people become competent, successful mediators.

Among the urgent reasons for doing so are the rise of increasingly destructive global conflicts that *cannot* be solved even by a single nation, let alone by a single style, approach, profession, or technique; the persistence of intractable conflicts that require more advanced techniques; and the recent rise of innovative, transformational techniques that form only a small part of the curriculum of most mediation trainings. [For more on mediating global conflicts, see my book, *Conflict Revolution: Mediating Evil, War, Injustice, and Terrorism – How Mediators Can Help Save the Planet*, Janis Publications 2008.]

The present generation is being asked a profound set of questions that require immediate action based on complex, diverse, complementary, even contradictory answers. In my judgment, these questions include:

1. What is our responsibility as global citizens for solving the environmental, social, economic, and political conflicts that are taking place around us?

2. Is it possible to successfully apply conflict resolution principles to the inequalities, inequities, and dysfunctions that are continuing to fuel chronic social, economic, and political conflicts?
3. Can we find ways of working beyond national, religious, ethnic, and professional borders so as to strengthen our capacity for international collaboration and help save the planet?
4. Can we build bridges across diverse disciplines so as to integrate the unique understandings and skills that other professions have produced regarding conflict and resolution?
5. How can we use this knowledge to improve the ways we impact mediator learning so as to better achieve these goals?

Locating potential synergies between psychology and conflict resolution will allow us to take a few small steps toward answering these questions. And small steps, as we learn in mediation, are precisely what are needed to achieve meaningful results. Why should we consider the possibilities of ego defenses or solution-focused mediation? For the same reasons we consider the potential utility of a variety of interventions – because they allow us to understand conflict and enter it in unique and useful ways.

The logical chain that connects conflict resolution with psychology is simple yet inexorable and logically rigorous, which proceeds as follows:

1. It is possible for people to disagree with each other without experiencing conflict.
2. What distinguishes conflict from disagreement is the presence of what are commonly referred to as “negative” emotions, such as anger, fear, guilt, and shame.
3. Thus, *every* conflict, by definition, contains an indispensable emotional element.
4. Conflicts can only be reached and resolved in their emotional location by people who have acquired emotional processing skills, or what Daniel Goleman broadly describes as “emotional intelligence.”
5. The discipline that is most familiar with these emotional dynamics is psychology.
6. Therefore, mediation can learn from psychology how to be more effective in resolving conflicts.

This logic alone should be sufficient to prompt a deeper assessment of psychological research and technique. Yet, considering the problem from a deeper perspective, we all know that no clear line can be drawn in life that allows us to separate our emotions from our ideas, or our neurophysiology from our behaviors. Quite simply, we are all emotional beings and must discover their inner logic if we do not want to be trapped or driven by them.

Deeper still, when we distinguish, simplify, or isolate different aspects of a problem, we disregard their essential unity, and with it, countless opportunities to resolve critically important conflicts and disagreements, simply by approaching them with a pre-determined, single-minded, *particular* point of view, no matter how profound or useful it may happen to be.

There is an equally simple, inexorable, and logically rigorous analysis based on a few simple philosophical assumptions that point us in a different direction. It goes like this: No two human beings are the same. No single human being is the same from one moment to the next. The interactions and relationships between human beings are complex, multi-determined, subtle, and unpredictable. Conflicts are even more complex, multi-determined, subtle, and unpredictable. Most conflicts take place beneath the surface, well below the superficial topics over which people are fighting and frequently hidden from their conscious awareness. [For more, see my book, *The Crossroads of Conflict: A Journey into the Heart of Dispute Resolution*, Janis Publications 2006.]

Thus, each person's attitudes, intentions, intuitions, awareness, context, and capacity for empathetic and honest emotional communication has a significant impact on their experience of conflict and capacity for resolution. As a result, *no one* can know objectively or in advance how to resolve any particular conflict, as anything chaotic and rapidly changing cannot be successfully predicted or managed.

For this reason, it is impossible to teach anyone how to resolve a conflict. Instead, we need to develop their skills, improve their awareness and self-confidence, and help them develop a broad range of diverse ideas and techniques that may or may not succeed depending on inherently unpredictable conditions. Moreover, we have known since John Dewey that learning is accelerated when it is connected to doing. Yet we continue to train mediators based on a set of false assumptions.

As an illustration of why it is important to take a different approach to mediator learning, consider these questions, directed primarily to those who are already experienced mediators:

- What have you learned since you began mediating that you wish had been included in your training?
- What are the training values that seem to you to flow naturally from the mediation process?
- Were these values reflected in the way your training was actually conducted? If not, how might they have been?
- How did you learn the *art* of mediation -- and especially, how did you learn to be more intuitive, empathetic, openhearted, and wise?
- What skills would you like to be able to develop in the future, and how might these be incorporated in the way mediation training is conducted?

Every mediator to whom I have asked these questions has easily identified a number of important topics that were not covered in their training, but were critical lessons that they discovered only after they started mediating. Here are some of the responses mediators in a recent training I conducted gave regarding what they wished they had been taught:

- Ways of using "brief therapy" and similar psychologically based techniques in mediation
- Detailed techniques for responding *uniquely* to each negative emotion; i.e., fear, anger, shame, jealousy, pain and grief

- Coaching skills for working with individual parties in caucus
- Methods for increasing emotional intelligence
- Ways of discovering what people think or want subconsciously, and of bringing them into conscious awareness
- Facilitation and public dialogue skills for working with groups
- Consulting skills for working with organizations on systems design
- Better ways of analyzing the narrative structure of conflict stories and a list of techniques for transforming them
- Better techniques for option generating and “expanding the pie”
- Learning when to take risks and mediate “dangerously”
- Ways of becoming more aware of and responding to the “energies” and “vibrations” of conflict
- How to develop, calibrate and fine-tune intuition, wisdom, and insight
- Techniques for surfacing, clarifying, and encouraging people to act based on shared values
- Ways of gaining permission to work with people on a spiritual or heartfelt level
- Methods for opening heart-to-heart conversations
- Knowing how to strike the right balance between head and heart
- Improved techniques for responding to negativity and resistance
- How to maintain the right balance between control and chaos
- Helping people reach deeper levels of resolution, including forgiveness and reconciliation
- Ways of addressing the underlying systemic issues and chronic sources of conflict
- How to transition into positive action, prevention, and systems design in organizational conflicts
- Techniques for maintaining balance and equanimity and avoiding frustration and self-doubt when conflicts don’t settle
- Ways of addressing our own unresolved conflicts and making sure our emotions and judgments don’t get in our way

Many of these directly concern the interplay between psychology and conflict resolution, but what is equally interesting about these responses is that the way we *teach* mediation often does not conform to the core values and principles we *practice* in the mediation process, or to what we know is successful in reaching people who are in conflict, or to what stimulates our learning, or even to how we would most like to be taught.

As I have described elsewhere, values are essentially priorities and integrity-based choices. They can be found both in what we do and what we do not do, in what we grow accustomed to and what we are willing to tolerate. They are openly and publicly expressed, acted on repeatedly, and upheld when they run counter to self-interest. In this way, they are *creators* of integrity and responsibility, builders of optimism and self-esteem, and definitions of who we are. They become manifest and alive through action, including the action of sincere declaration.

At a deeper level, we all communicate values by what we do and say, by how we behave, and by who we become when we are in conflict. While these values are often inchoate and difficult to articulate, beneath many commonly recognized mediation practices we can identify a set of values, even *meta-values* that, in my view, represent our best practices as a profession. Our most fundamental values appear and become manifest to others when we:

- Show up and are present: physically, mentally, emotionally, and spiritually
- Listen empathetically to what lies hidden beneath words
- Tell the truth without blaming or judgment
- Are open-minded, open-hearted, and unattached to outcomes
- Search for positive, practical, satisfying outcomes
- Act collaboratively in relationships
- Display *unconditional* authenticity, integrity, and respect
- Draw on our deepest intuition
- Are on both parties' sides at the same time
- Encourage diverse, honest, heartfelt communications
- Always act in accordance with our core values and principles
- Are ready for anything at every moment
- Seek completion and closure
- Are able to let go, yet abandon no one

While not everyone will accept these values, merely articulating, debating, and engaging in dialogue over them, considering how to implement them, and deciding to commit and live by them, will automatically give rise to a higher order of values – the value of *having* values. Practicing them over time -- not solely in what we say or do, but how we say and do it, will initiate to the highest order of values – the value of *being* what we value.

By living our values, we become what we practice, integrating who we are with what we preach and do. This is the deeper message of mediation: that by continually and collaboratively searching for positive solutions to conflict, bringing them into conscious attention, living them as fully as possible, and developing the theories, practices, processes, and relationships that allow others do the same, we enhance our relationship to the mediation process as a whole and build a collaborative community of reflective, emotionally intelligent practitioners.

Thus, to be fully realized, our values have to be reflected not merely in our practice, but in all aspects of our personal lives, including the ways we ourselves handle

conflict, teach mediation, and interact with those who wish to learn it. Yet many mediators' lives are filled with intense adversarial conflicts, many mediation trainings are conducted in ways that do not conform to its core values, and many mediators interact with students in ways that undermine their ability to learn.

For example, when trainers do not acknowledge or respect differences between cultures, styles, and diverse approaches to conflict; when they try to promote one-size-fits-all models as applicable to all circumstances; when they downplay and ignore the role of emotions, or heartfelt communications; when they do not pay attention to the diverse ways people learn, or even to the ways people are seated in the classroom; when they ignore the systemic sources of conflict; or when they fail to listen and learn from those they are teaching, we can say that the processes they are using are not congruent with the values they espouse. Here is a simple, concrete illustration.

Howard Gardner at Harvard University has famously described the diverse ways people learn using the idea of "multiple intelligences." The core of his theory is a recognition that people think and learn differently. Gardner believes there is not "one form of cognition that cuts across all human thinking," but that traditional notions of intelligence are misleading because I.Q. tests focus primarily or exclusively only on two areas of competence: logic and linguistics. Instead, Gardner believes there are eight areas of intelligence that account for the range of human potential:

1. *Linguistic Intelligence*, or the capacity to use the written or spoken language to express ourselves
2. *Logical-Mathematical Intelligence*, or the ability to understand scientific principles or logic systems
3. *Spatial Intelligence*, or the ability to conceptualize spatial relationships
4. *Bodily Kinesthetic Intelligence*, or the ability to use our whole body or parts of it to solve problems, make things, or express ideas and emotions through movement
5. *Musical Intelligence*, or the ability to "think" in music, be able to recognize patterns, and manipulate them
6. *Interpersonal Intelligence*, or the ability to understand other people and form and build strong, productive relationships
7. *Intrapersonal Intelligence*, or the ability to understanding ourselves and know who we are, including our strengths and limitations
8. *Naturalist Intelligence*, or the ability to see and understand the interrelationship and interdependence of all living things and have a special sensitivity to the physical features of the natural world

While each of us may have quibbles with this list and perhaps wish to suggest alternative forms of intelligence, such as emotional, heart or spiritual, and political intelligence, it is clear that most mediations and conflict resolution training programs narrowly focus on linguistic and logical skills and ignore other forms of intelligence, intervention styles, and conflict processing skills that might contribute significantly to success in mediation.

Even the word "training" is problematic. There are, for example, fundamental differences between various approaches to teaching and learning, and these same

differences can be found in the ways we seek to resolve conflicts. We can distinguish, for example:

- *Lecture and Recitation*, which involve rote memorization and recall of facts, and result in a transfer of information, yet often end in testing and forgetting
- *Education and Courses*, which involve exposure to ideas, specialized theories and practical techniques that result in learning and understanding, yet often end in disputation and Talmudic clashes of opinion over minutia
- *Training and Workshops*, which involve group discussion and result in improved technical skills, competency and confidence, yet often end in mechanical repetition, inflexibility, and inability to handle problems not addressed in the training
- *Practice and Exercises*, which involve role plays and practical drills, and result in increased self-confidence and some degree of flexibility, yet often end in improving skills without also improving the understanding needed to successfully implement them
- *Personal Development and Seminars*, which involve discovery, self-awareness, and self-actualization, and result in authenticity, integrity and personal transformation, yet often end in non-engagement with others
- *Meditation and Retreats*, which involve insight and concentration, and result in wisdom, spiritual growth, and transcendence, yet often end in nothing ever changing or being accomplished, and a lack of interest in improving others

These diverse forms of learning invisibly shift our focus, activity, and forms of interaction from an orientation toward memorizing, to one of knowing, to one of understanding, to one of doing, to one of being. As we transition to deeper levels of capability in our practice, understanding, and commitment to conflict resolution, we require learning methods that allow us to develop more collaborative, democratic, self-aware, and diversely competent skills as mediators.

While every learning process has a value and each has times and circumstances that justify and make it successful, in my experience, those that improve our ability to work through the *emotional*, psychological, and heart-based underpinnings of conflict – especially our own – create the greatest leverage in terms of the development of values, integrity, and overall capacity building.

Approaching the problem of mediation competency, learning, and training design from this point of view suggests a number of interesting questions we can begin asking prospective mediators, in order to improve their psychological awareness, develop their emotional intelligence, and facilitate the design of more advanced training programs. For example:

- What are the most significant transformational learning experiences you have had?
- What made them significant or transformational for you?



- What did these experiences have in common that you might want to incorporate into a training experience?
- *Why* attend this training? What do you really want to achieve?
- What are your larger goals and priorities, and how might this training support them?
- What could block your ability to achieve these goals and priorities, and how could these obstacles be anticipated and overcome?
- What specifically do you want to be taught? How did you learn *that*?
- What do you think will be the best way of teaching what you want to learn?
- Who else should be trained? Why them? Who should not be trained? Why not?
- Who would be the ideal trainer? Why? Who would not? Why?
- What values, ideas, and skills do you most want to learn?
- How might those values, ideas, and skills be built into the content and process of the training?
- How will the training actually result in changed behavior? How should you be supported in changing?
- How might others support you in changing?
- Will the training lead to improved systems, processes and relationships? If so, how?
- How will you learn the *art* of what you want to do?
- Should the training encourage you to participate, think critically, and feel free to be yourself? How?
- How might your future needs and problems be anticipated in the content and process of the training?
- How will you know whether the training has been effective?
- Based on the answers to these questions, how should the training be designed and conducted?

The answers to these questions may collaterally help stimulate a number of potential growth areas in the field of conflict resolution, such as marital mediation between couples who would like to improve their relationship using mediation skills; applying conflict resolution systems design skills to a broad range of social, economic, and political issues; mediating the connections between families, community groups, workplaces, organizations; integrating conflict resolution skills into teambuilding and project management workshops; extending school mediations to encourage parents and teachers to work through their personal conflicts along with the children; working with a broad range of hospital and health care disputes that flow from the need to

process grief, guilt, rage, and loss; and new ideas for resolving intractable international conflicts.

Part of the object of a truly *meditative* approach to education ought to be to encourage students to become responsible for their own learning, and teachers to be responsible for finding the deepest, most profound and effective way of supporting them. One way of doing so, inspired by paradoxical approaches to therapy, is by asking students to complete the following questionnaire *before* their training, then discuss their answers:

### **Pre-Training Evaluation**

Please rate your expectations regarding the session we are about to have, and how you expect to participate on a scale of 1 to 10, 10 being highest.

1. *How valuable an experience do you plan to have?* (1 = terrible, 10 = fantastic):
2. *How participative and engaged do you plan to be?* (1 = asleep, 10 = extremely excited):
3. *How much risk do you plan to take?* (1 = none, 10 = serious adventure):
4. *How open, honest and constructive do you plan to be?* (1 = silent, 10 = painfully honest):
5. *How willing are you to listen non-defensively and non-judgmentally to others?* (1 = doing email, 10 = completely open):
6. *How responsible do you feel for your own learning?* (1 = not at all, 10 = entirely):
7. *How responsible do you feel for the learning of others?* (1 = not at all, 10 = totally):
8. *How committed are you to implementing what you learn?* (1 = amnesia, 10 = complete commitment):

[Based in part on work by Peter Block]

Applying these ideas to conflict resolution, we all know intuitively that mediators are not immune from conflicts, and that we will become better dispute resolvers by working through and resolving our own conflicts. It therefore makes sense for us to incorporate into the mediation training process the psychological components that will allow people to work directly on resolving their personal conflicts. At present, few mediation programs allow or encourage them to do so.

In the end, *we are* the technique. As imperfect as we are, it is who we *are* that forms the path to resolution, and that same path invites us to become better human beings, simply in order to become better mediators. This realization returns mediation to its *human* origins and essence, as an exercise not solely in empathy and compassion, but in creative problem solving, emotional clarity, heartfelt wisdom, and social collaboration.

Hopefully, these practices will encourage us to look more deeply and wisely at the world within, as well as the world without, and assist us in finding ways to translate our own suffering into methods and understandings that will lead to a better, less hostile and adversarial world.

## HANDLING EMOTIONAL ISSUES IN CONFLICT RESOLUTION

Some of the assumptions people hold about strong emotions are:

- Emotions are equated with irrationality.
- Emotions are negative.
- Emotions cannot be controlled and will escalate if released.
- Emotions can be ignored.
- Emotions are not helpful in making decisions.

There are two basic ways of processing intense emotion: by tightening up and turning away, or by letting go and turning toward. It is the latter that is most helpful in moving toward awareness and the negotiation and resolution of differences.

### 1. **Conflict resolution can:**

- Help people feel competent to face and manage conflict
- Create a safe atmosphere to bring disputants face to face
- Allow for surfacing emotional issues that block conflict resolution

### 2. **Basic steps in handling emotional issues:**

- **Set up ground rules for meeting**
  - \* Confidentiality
  - \* Neutrality
  - \* Problem solving is goal
- **Allow emotions to surface**
  - \* Promote direct interaction
  - \* Do not rush into "premature negotiation"
- **Use communication skills**
  - \* Make sure each person feels understood
  - \* Identify issues and reframe them into solvable problems
  - \* Separate content of problems from emotions in relationships
- **Keep emotional distance and perspective**
  - \* Take breaks
  - \* Caucus - meet with each side separately
  - \* Use an outside consultant to strategize
- **Focus on change and its consequences**
  - \* What would solve the content problem?
  - \* What if these solutions were tried?  
(Fear as key to blocking to resolution)
- **Make emotional issues problems to be solved**
  - \* Get requests for specific actions from each side
  - \* Negotiate a trial solution
  - \* Encourage commitment to action

## RESPONDING TO INTENSE EMOTIONS

Certain human emotions are universally recognized through their corresponding facial expressions regardless of cultural differences. These include: anger, sadness, shame, fear, joy, surprise, and love. Each of these can be considered to range along a spectrum that extends, in the case of anger for example, from mild annoyance to homicidal rage. Here are some techniques for responding to intense emotions.

1. **Acknowledge and affirm the emotion.** Acknowledging and affirming emotions helps complete them so the parties can move beyond them. Emotions are not static things that are negotiated, but a kind of energy or force based on concrete experiences and responses that need to be communicated, and will not release their grip until they are released, expressed constructively, and acknowledged. One way of acknowledging and affirming emotions is to label them and confirm your observation of what is being expressed, for example, "I am hearing a lot of sadness beneath your anger. Is that right?" Be careful how you label someone else's emotions and use the form of a question rather than a statement, as they may otherwise see you as manipulative and controlling.
2. **Separate behaviors from emotions.** People often say, "He made me mad!" But emotions are what *they experience*, not what other people do to them. Parties need to separate other people's behavior from the emotion they are experiencing, for example, by saying: "I see that you're angry with me, but I'm not sure what I *did* that you are angry about." Or: "Could you explain to me *what I did* that triggered your anger?"
3. **Conduct a perception check.** Confirm whether the emotions someone is expressing are too intense for the person on the receiving end, for example, by saying: "Does his expressing his anger bother you?" "What bothers you about it?" Or: "How can he express his feelings without you shutting down or becoming angry or defensive?"
4. **Reframe the emotion to a level that can be heard.** Reframing can be done incrementally. All statements like "I'm angry" can be reframed along a continuum that runs from high to low intensity -- i.e., "I feel enraged," or "hostile," or "mad," or merely "upset." This continuum provides a range of alternative words people can use to convey the *exact* emotion they are feeling, or reflect the exact emotion of their opponent, which will allow the receiving party to respond appropriately and lead them to either deepen or complete their emotional processing.
5. **Reframe to a higher intensity to express underlying emotions.** You can reframe to a higher intensity of emotion to release more powerful feeling, or to a lower intensity to regain control over the conversation or start a shift toward problem solving. Reframing to higher emotions tends to build trust, since it is clear that you are not avoiding honest feelings.
6. **Redirect the emotion away from the person and toward the problem.** Draw the emotion to the issues, details, process, systemic causes, or if necessary to yourself, to reduce defensiveness and increase listening. You can say: "What is he doing that is getting you so angry?" or "Can you hear her anger and frustration over what happened?" or "Are you both willing to take responsibility for what happened and apologize for any pain you've caused?"

7. **Stop the process by asking questions.** For example, you can stop people who are arguing and ask them: "Excuse me, is this conversation working?" They will always say "no," in which case you can say, "Would you like it to work?" and "Can I give you a suggestion about how you might say that differently?" Or, you might ask hard questions about the intensity of the emotion, for example: "Her disagreement clearly upsets you. What does she have to do to reassure you that she is willing to respect your opinions?" or "Are you angry because you feel he is taking advantage of you?" or even "Regardless of whether that's true, why do you let yourself be taken advantage of by her?"
8. **Search for triggering mechanisms.** There is always something that triggers emotion. Try to ascertain whether it is being used consciously or unconsciously. If consciously, let the person know it is interfering with the other person's ability to understand them and ask them to discontinue. If it is unconsciously, try to draw their attention to what triggered it by asking questions, or to the ineffectiveness of their behavior by describing its effects and requesting that it be discontinued.
9. **Separate intentions from effects.** Describe the emotional effects of the behavior, then ask if those were the effects the person intended or *wanted* to achieve when they chose to engage in it. If those were the desired effects, ask if they are willing to take responsibility for the results they created by their choice. If they did not achieve the effects they desired, ask what effects they would like to achieve, if they *want* to solve the problem, and how they might communicate more effectively.
10. **Reach process agreements about the future.** Ask for permission to let the person know when their behavior is causing communication to break down, or ask them to let you know when it breaks down for them. Ask what they need from you to make the process work, and how you might identify early warning signs of a process breakdown, then negotiate detailed agreements on how everyone will respond if it does.
11. **Set limits.** If the emotion coming from someone is too intense, you can refuse to participate in the conversation any longer, for example by saying: "If you continue to yell, I will not be able to help you reach an agreement." If they continue, take a break and leave for a few minutes.
12. **State concerns openly.** For example, you might say: "How do you respond – do you get frustrated when he starts yelling?" "Do you think you can talk about this issue without yelling?"
13. **Model the behavior you want.** Encourage people to express their emotional concerns and model respectful communication, for example by saying: "I'm frustrated about our conversation right now, because...." or "It disappoints me when you do that."
14. **Name the emotion.** It may be useful to encourage the parties to actually name the feelings that are involved and say, for example: "Do your feelings get really hurt when she ignores you?" or "When he criticizes you so harshly, do you feel he thinks you're worthless?" Again, if you name another person's emotion, it's best to do it in the form of a question.

15. **Link the behavior that causes the emotion to consequences for the other person.** For example, by saying: "He gets angry when you say he can't do the job, then he get depressed, and his performance *really* goes downhill. Is that right? Is that the result you want?"
16. **Identify specific behaviors that provide solutions.** Some examples of statements that cite specific behaviors and solutions are: "If he helped you with the work, would you be convinced that he cares?" "If not, what would convince you?" or "How would you like him to ask you to do it in the future, so you can feel satisfied that he respects your ability?"
17. **Identify what can be done to respond more skillfully.** This is something everyone can all do when someone's behavior begins to bother them. They can tell the person specifically what it would take for them to let go of their anger or frustration, or better, model the response they want and ask what it would take to change their behavior.
18. **Lower tone of voice and slow the pace of speech.** Often, the most effective way to defuse a powerful emotion is simply by lowering and calming your tone of voice, and slowing your rate of speech. Try it, it nearly always has a strong de-escalating effect on those who hear it.
19. **Sit silently and just listen.** One of the most powerful reasons for intense emotion is the absence of listening. If you become quiet and simply listen to both sides they will start to run out of steam after a while and you can re-start the dialogue. Listening is a sign of respect, and active, empathic listening calms people by making them feel heard.
20. **Acknowledge and validate their listening.** It is often useful to acknowledge people who, in spite of their difficult and powerful emotions, are nonetheless willing to discuss the issues, and compliment them for their courage in being willing to do so. You can then ask if they are willing to continue talking about these issues until they can think of a solution that if satisfactory to both of them.

## COMPONENTS OF EMOTIONAL INTELLIGENCE

	Definition	Hallmarks
<b>Self-Awareness</b>	the ability to recognize and understand your moods, emotions, and drives, as well as their effect on others	self-confidence realistic self-assessment self-deprecating sense of humor
<b>Self-Regulation</b>	the ability to control or redirect disruptive impulses and moods  the propensity to suspend judgment- to think before acting	trustworthiness and integrity  comfort with ambiguity openness to change
<b>Motivation</b>	a passion to work for reasons that go beyond money or status  a propensity to pursue goals with energy and persistence	strong drive to achieve  optimism, even in the face of failure organizational commitment
<b>Empathy</b>	the ability to understand the emotional makeup of other people  skill in treating people according to their emotional reactions	expertise in building and retaining talent  cross-cultural sensitivity service to clients and customers
<b>Social Skill</b>	proficiency in managing relationships and building networks  an ability to find common ground and build rapport	effectiveness in leading change  persuasiveness expertise in building and leading teams

[Daniel Goleman, Harvard Business Review, November-December, 1998]

## WHAT TRIGGERS OUR EMOTIONAL RESPONSES?

Our emotional responses are not sudden, but take place over time. If we watch them carefully, we can discern a number of discrete triggers, or stages in their formation, all of which can take place within a few seconds:

### **1. Triggering Action or Event:**

An action or event takes place and is communicated to us, becoming a fact in our emotional lives.

### **2. Perception of Emotional Tone or Intent:**

We perceive an underlying intent, perhaps through a tone of voice or quality of action or form or style of communication.

### **3. Triggering of Memories and Subjective Associations:**

These perceptions trigger conscious or subconscious memories and associations that have their own separate emotional content.

### **4. Interpretation or Attribution of Meaning:**

We attempt to explain or interpret the action or event, together with its emotional tone, in a way that makes sense based on our experiences.

### **5. Arising of Emotional Response:**

Based on the meaning or interpretation we have given to what has happened, we may feel fear, anger, shame, guilt, love, hate, etc.

### **6. Suppression, Repression, Intensification, Neutralization of Response:**

We often become uncomfortable with our own emotional responses, and decide to suppress, repress, intensify or neutralize them.

### **7. Action or Inaction Based on Emotional Response:**

We ultimately respond to whatever triggered our emotion, either by taking some action, or failing to take it.

### **8. Internal Consequences of Action Taken:**

Whether we act or fail to act, we experience internal consequences and feelings, which reflect our perception of whether we have acted properly, and how we feel about ourselves as a result.

### **9. Reflection and Reinterpretation:**

After we have acted or failed to act, we may reflect on what happened, reinterpret it after the pressure of the moment has subsided, and reconstruct it to fit together into a coherent whole.

### **10. Learning and Transformation:**

We may learn something from our responses, and be transformed, so that we become more skillful in our emotional responses in the future.



## ELEMENTS OF EMOTION

Emotions have their own elements, aspects and dimensions that combine together to produce what we feel. Here are some of these elements together with a set of questions to help you identify the source and quality of what you are feeling:

1.     **Quality:**             Is what you are feeling depression, anger, guilt, shame, love, fear, or some other feeling?
2.     **Intensity:**         Is it mild or intense? Barely noticeable or gripping?
3.     **Direction:**         Is it inner-directed or outer-directed? Toward a specific target or generalized toward no one in particular?
4.     **Duration:**         Is it momentary or long lasting? Does it come in cycles? What does it change into? What did it start as?
5.     **Location:**         Where is it felt in your body? Where is its impact strongest? Where is it lodged? Is it a wave or a spot? Does it radiate? What is its shape?
6.     **Origination:**       When have you felt this way before? What is it linked to? What makes it disappear? What triggers or causes it?
7.     **Meaning:**            What does it mean to you? Why does it have that meaning? Where did you learn that was what it meant? What else could it mean?
8.     **Awareness:**         How aware are you of each of these elements? Can you detect subtle movements in each? Are you blocking or impeding your awareness of what you are feeling? If so, why? What would happen if you didn't?
9.     **Patterns:**            Take a few minutes to review your answers to these questions. Do they fit together in any way? Do you notice any patterns?
10.    **Learning:**            What lessons regarding the origins, meaning and impact of your emotions can you draw from your answers to these questions? What might you do differently as a result?

## SOME CONFLICT-PRONE PERSONALITY TRAITS

<b>Trait</b>	<b>Functional Form</b>	<b>Where it Falters</b>	<b>Dysfunctional Form</b>
<b>I. Odd/ Eccentric</b>	Discerning, & observant, attentive & perceptive, loyal & protective, independent	Environments & relationships that require high levels of trust & interdependence	Suspicious, distrustful, thin-skinned, defensive, demanding, aloof unforgiving, & hostile
<b>A. Paranoid</b>			
<b>B. Schizoid</b>	Independent & self-possessed, calm & even-tempered, level-headed & unflappable	Environments in which they are expected to be intimate or closely connected with others	Cold & aloof, solitary & reclusive, unconnected & misanthropic
<b>C. Schizotypal</b>	Original & unconventional, creative & open minded, independent & self-directed	Corporate environments that require adherence to conventional codes of behavior	Eccentric & outlandish, credulous & "flaky," awkward & uncouth, unable to form close relationships
<b>II. Dramatic/ Erratic</b>	Emotionally expressive, spontaneous & uninhibited, imaginative & curious	Emotionally threatening circumstances in which they imagine or feel abandoned by a loved one	Moody & unstable, volatile & uncontrolled, capricious & unreliable, clingy & suicidal
<b>A. Borderline</b>			
<b>B. Antisocial</b>	Charming & well-spoken, adventurous & daring, passionate, cunning	Tightly constrained environments in which they must follow others' rules and customs	Aggressive & manipulative, deceptive & untrustworthy, reckless & impulsive, lacking regard for the rights of others, remorseless
<b>C. Narcissistic</b>	Confident & self-assured, shrewd & sharp, enterprising & ambitious	Environments in which they are treated like worker drones or forced to confront their own failures; handle criticism poorly	Arrogant & egotistical, demanding & entitled, greedy & selfish, lacking empathy.
<b>D. Histrionic</b>	Dramatic & entertaining, affectionate & loving, stylish & fashionable, generous & imaginative	Business-like environments where expressiveness is frowned on & they can't be the center of attention	Demanding & self-centered, manipulative & disingenuous, vain & superficial, volatile and sexually aggressive/provocative
<b>III. Anxious/ Inhibited</b>	Sensitive & intuitive, loyal & reliable, independent & self-reliant	Loose, unpredictable environments, especially requiring social activity or public appearances	Painfully self-conscious & timid, rigid & inflexible, suspicious & distrustful
<b>A. Avoidant</b>			
<b>B. Dependent</b>	Thoughtful & considerate, faithful & devoted, agreeable & cooperative	Challenging, go-it-alone environments in which they are forced to rely only on themselves	Helpless & weak, clingy & insecure, impressionable & easily influenced
<b>C. Obsessive-Compulsive</b>	Conscientious & detail-oriented, intense & single-minded, ethical & principled	Unstructured, chaotic environments with few rules or customs	Rigid & inflexible, cool & unemotional, controlling & miserly

## WHAT PUSHES YOUR BUTTON?

What pushes your button? Often, we find the answers when we look below the surface, where we may learn it is related to one of the following:

1. Behaviors we lack the skill to handle;
2. Behaviors we were not allowed to get away with or were punished for doing;
3. Behaviors we would secretly like to engage in ourselves;
4. Behaviors that elicit emotions we have walled up deep inside;
5. Behaviors we are vulnerable to because of someone in our family of origin;
6. Behaviors that reflect back to us a part of ourselves we don't like;
7. Behaviors we are still trying to overcome ourselves;
8. Behaviors we feel drawn to respond to in a way that would leave us vulnerable;
9. Behaviors we should have resisted earlier but did not;
10. Behaviors that force us to confront our own false expectations.

## RANGES OF EMOTION

Our principle emotions are grouped in families and range from mild to powerful in expression, for example:

1. **Anger:** From Irritation to Homicidal Rage
2. **Depression:** From Sadness to Grief
3. **Happiness:** From Joy to Rapture
4. **Fear:** From Anxiety to Paralysis
5. **Shame:** From Embarrassment to Humiliation
6. **Love:** From Infatuation to Passion
7. **Hatred:** From Dislike to Loathing

## "I" MESSAGES: TAKING RESPONSIBILITY FOR WHAT YOU FEEL

**SITUATION:** An employee complains because her supervisor never tells her she's doing a good job.

**Ask yourself these questions:**

How do you *feel* about the behavior? (I FEEL)

What *specifically* is the behavior that bothers you? (WHEN)

How does the behavior *affect* you? (BECAUSE)

**Make a statement that conveys responsibility for your feelings:**

I FEEL angry and hurt

WHEN I am never complimented on my work

BECAUSE it makes me think I'm not a valuable employee.

**SITUATION:** A fellow employee always comes late to staff meetings

**Ask yourself these questions:**

How do you *feel* about the behavior? (I FEEL)

What *specifically* is the behavior that bothers you? (WHEN)

How does the behavior *affect* you? (BECAUSE)

**Make a statement that conveys responsibility for your feelings:**

I FEEL frustrated

WHEN you come to staff meetings late

BECAUSE it affects the efficiency of the meeting when things have to be repeated.

**BEHIND THE MASK:  
HIDDEN MARKERS IN EMOTIONAL COMMUNICATION**

1. **Accusation as Confession:**  
It is often the case that people who feel guilty about something they have done accuse others of it, as a way of diverting (or attracting) attention.
2. **Insult as Denial:**  
Every insult is a choice that often says more about the insulter than the one insulted. For example, if X says that Y is 'lazy', it is likely that X is hard working and does not give him/herself permission to relax.
3. **Anger as Vulnerability:**  
Part of anger is a request for communication, and part is an effort to create distance or a boundary as a result of being highly vulnerable, either to the person or the message.
4. **Withdrawal as Rage:**  
Those who withdraw from conflict or confrontation may do so in order to mask or silence a sense of uncontrollable rage, based on an assumption that there is no alternative to rage or withdrawal.
5. **Defensiveness as Egoism:**  
Often, when people become defensive, it is because they mistakenly assume that the conflict or disagreement is directed at them, or because they are unable to separate their ideas from who they are.
6. **Passivity as Aggression:**  
Public compliance often masks private defiance. Passivity does not always mean agreement, and can itself become an aggressive act, by using inertia to block momentum.

**BEHAVIORS THAT TRIGGER ANGER**

- Misrepresentation:
  - \* Lying: Direct misrepresentation through verbal communication
  - \* Indirect Misrepresentation: Giving false impressions
  - \* Nonverbal Deception: Non-verbal misrepresentation
- Making excessively high demands.
- Overstepping the bounds of one's authority.
- Insulting the other party.
- Causing the other party to lose face.
- Showing personal animosity toward a professional colleague.
- Falsely accusing the other party of wrongdoing.
- Failing to honor agreements, both formal and informal.
- Failing to reciprocate the other party's concessions.
- Failing to adequately prepare and/or organize for the negotiation.
- Lacking real commitment to achieving an agreement or making it work.
- Questioning a person's authority or intentions.
- Seeking to undermine someone's authority by "going over his or her head".
- Showing excessive concern for unimportant details and ignoring a larger context.

(Based on Joseph P. Daly, *Negotiation Journal*, Vol. 7, No. 1)

### SOME REASONS FOR ANGER

- Invasion of personal space
- Dissatisfaction
- Non-recognition of needs
- Disrespectful communication
- Projection or externalization of anger at oneself
- Desire for intimacy
- Need for recognition or attention
- Shame or humiliation
- Need to be heard
- To cover a weakness or divert attention from a sensitive subject
- Destruction of personal property

### SOME REASONS FOR GIVING UP ANGER

- Anger is a form of connection with someone you dislike.
- Anger injures both its target and the one who directs it.
- Anger is often an externalization of anger against oneself. Forgiveness of the other means forgiveness of oneself.
- Anger creates the other -as- enemy and does not allow for empathy, the other-as-friend.
- Anger converts the self from victim to perpetrator. Giving up anger mean giving up.
- Anger is a reflection of weakness, or vulnerability to others. With internal strength, others actions need not bother you.
- Anger creates a barrier against vulnerability, a defense against part of yourself.

Imagine for a moment that you have a child who has run out into the street. After returning to your child to safety, many people will use anger to cause a little bit of pain so the child will remember not to do that again. Then you will discover the following:

- Anger is immediate, but relatively superficial, since:
- Beneath anger lies fear
- Beneath fear lies a perception of the possibility of pain, loss, grief and guilt
- Beneath pain, loss, grief and guilt lies caring for the child who could have been hurt

These are fundamentally different conversations, each of which will take you deeper into the ground of your emotion.

## HOW TO WORK WITH FEAR

1. Name it. Describe it in detail.
2. Breathe into it. Focus on what it feels like.
3. Invite it in. Accept it as a teacher.
4. Speak to it, but not in anger.
5. Set it aside for a while. Let it go.
6. Refocus on what is positive about it.
7. Take it into the light and look at it closely.
8. Laugh at it. Play with it.
9. Assume it has already come to pass.
10. Figure out where it came from.
11. Identify a worse fear if you don't.
12. Reframe it as courage.
13. Put what you want just behind it.
14. Consider the dangers of safety.
15. Use it to hone your skills.
16. Thank it, bless it, and let it go.
17. Use ritual and ceremony to bypass it.
18. Create an appearance of regularity through procedure.
19. Talk it over with people who have overcome it.
20. Shed it like a snake sheds its skin.

## UNDERSTANDING GRIEF AND LOSS

People who experience grief and loss have many different reactions at different times and often at the same time, including the following:

1. **Denial:**
  - Disbelief; the feeling that this is not really happening.
  - Changing the subject.
2. **Shock:**
  - Numbness.
  - Bodily reactions -- heart palpitations, confusion, panic, agitation.
3. **Pain:**
  - Intense longing.
  - Emptiness.
  - Feelings of physical pain from separation.
4. **Anxiety:**
  - Feelings of helplessness.
  - Fear and insecurity.
  - Feelings of desertion and distrust.
5. **Anger:**
  - Feelings of betrayal or rejection.
  - Blaming the other person for leaving.
  - Keeping the connection alive through anger.
6. **Guilt:**
  - Feeling that "It's my fault."
  - Blaming or punishing oneself.
  - Punishing others by externalizing guilt.
7. **Depression:**
  - Deep sadness over what has been lost.
  - Negative self-esteem and world view.
8. **Resentment:**
  - Feeling stuck with problems.
  - Sense of futility about past efforts.
  - Rejection of inappropriate responses by others.
9. **Relief:**
  - Feeling glad that the negative aspects have gone.

- Pleasure in being able to live one's own life.
- Release from one's old roles and behaviors.

**10. Sadness:**

- Missing the other person's company.
- Feeling one will never find a replacement.

**11. Forgetting:**

- Loss of some memories.
- Loss of the ability to experience the same emotional intensity.

**12. Acceptance:**

- Beginning to feel all right again.
- Letting go of the other person.

The stages of processing loss consist primarily of holding on, processing the loss, letting go, and beginning again. Passage through these emotions can be facilitated through comforting, consoling, acknowledging, validating, listening, sharing, verbalizing the loss, ventilating the anger, normalizing, relieving the guilt, creating rituals of acceptance, relinquishment, recovery, letting go, and helping people recreate themselves and get on with their lives.

### DESIGNING GRIEF RITUALS

Grief rituals allow us to re-connect in non-trivial ways with each other, reset our priorities, and gain strength by sharing our pain. To be effective, these ceremonies need to encourage participants to:

- Tell stories about what happened and the pain it produced
- Express regret and reach forgiveness for whatever they did or did not do
- Recognize that they are not alone, and that others suffered as well, including those who triggered their grief
- Choose to let the suffering stop with them
- Complete whatever was unspoken or unperformed
- Identify something positive that can be done to prevent whatever happened from happening again
- Dedicate part of their life to making sure it doesn't happen again



#### **STEP IV: SURFACE THE INTERESTS**

We now recognize that there are three fundamental methods by which disputes are resolved: power, rights, and interests. Power-based resolution processes such as war and coercion create a great deal of “collateral damage,” result in winners and losers and a loss of socially important information, and as a result, inevitably invite future disputes in their wake. In addition, as Lord Acton wrote, “All power corrupts and absolute power corrupts absolutely,” and when one group routinely wins power contests, those who lose must either surrender or escalate the level of conflict until their needs are met. Under these conditions, it becomes nearly impossible for systems to evolve without experiencing consequential, cataclysmic conflicts.

Rights-based processes such as litigation and adversarial negotiation are designed to place limits on the exercise of power, allowing a greater number and variety of disputes to be resolved and important information to be salvaged, thereby allowing systems to evolve more peacefully. But rights are ultimately based on power and perceived by those with power as curtailing their authority. They are therefore fragile and contingent on the continuing willingness of those with power to acknowledge and enforce their existence. In addition, rights-based processes also produce high levels of collateral damage, winners and losers, corruption, and muted versions of the same problems created by power. Additionally, rights-based approaches generate bureaucracy, which slows the process by which systems evolve.

Only interest-based processes such as mediation and collaborative negotiation encourage individuals, systems, and societies to learn from their conflicts, preserve their information, and turn it into a catalyst for transformation and transcendence. Interests are diverse yet mutually compatible, and because interest-based processes require consensus, they cannot result in unacceptable collateral damage, win/lose outcomes, or entrenched corruption. In this way, the evolution of more advanced approaches to resolution allows deeper levels of conflict to emerge, more advanced resolution outcomes to occur, and systems to advance to more complex, collaborative, inclusive forms of order.

## QUESTIONS TO ELICIT INTERESTS

Remember that an interest is not what you want, but why you want it. To discover the interests that lie underneath the parties' positions, ask the following questions:

- Why do you want that?
- If you could have anything, what would you want?
- Help me understand why that is important to you.
- What concerns do you have about this?
- What's the real problem here?
- What would be wrong with...?
- Why not do it this way?
- What are your fears?
- What would you do if you were in charge?
- What are your goals for the future?
- What would be wrong with accepting the other side's proposal?
- What would your proposal be if they were willing to meet your interests?
- What could the other side do to make their proposal acceptable to you?

## QUESTIONS TO PROBE EMOTIONAL ASSUMPTIONS

One of the most potent methods available to mediators to encourage the resolution of any dispute is our own curiosity, expressed by our ability to ask difficult questions. Questions can help clarify the parties interests and desires, challenge their assumptions about each other, and support listening by reframing their communication to exclude elements of demonization or victimization that result only in defensive, aggressive or passive responses.

Assume, for example, a dispute in which A says to B: "You are a bully." Many mediators will attempt to re-frame the insult by saying to A something like: "So what I'm hearing is that you feel bullied by B," to which A agrees, refocusing on the bullying that A experienced, rather than on judging or labeling Fred's actions or intentions.

This is a good start, but some additional questions are also suggested by the remark, reflecting progressively deeper mediation interventions, including the following possibilities:

1. "What specifically did B do that you consider to be bullying?"
2. "What made that feel like bullying to you?"
3. "What would you have liked B to have done instead?"
4. "Why do you allow yourself to be bullied by B?"
5. "How could B have made the same point, but in a way that would not have been experienced by you as bullying? "
6. "What do both of you think are some of the reasons people in general bully others?"
7. "What are some of the rationalizations people generally offer for allowing themselves to be intimidated?"
8. "What do you think B wants to get through what you call bullying?"
9. "If we talk about those issues do you think B will still feel the need to push so hard for what s/he wants?"
10. "Can you think of anything A did that encouraged you to engage in what s/he has called "bullying"?"
11. "What could s/he do in the future that would encourage you to act differently?"
12. "Would you be willing to try that approach right now and see if it works."
13. "Why do you (B) think A felt afraid of or intimidated by you?"
14. "Was there anything you (A) did that encouraged B to think his behavior was acceptable?"
15. "Why did you do that?"
16. "Why do you (B) think s/he felt that way?"
17. "Did A do anything that encouraged you (B) think s/he consented or accepted your behavior?"

18. "Can you both agree that you could have a better relationship if the two of you did not engage in or accept bullying behavior?"
19. "What are some of the ways your relationship could improve if you moved away from these behaviors?"
20. "Was there anyone who was a bully or was bullied in the neighborhood or school where you grew up or in your family of origin?"
21. "How did you respond to it then?"
22. "Would you respond the same way to it now?" "Why?"
23. "Can you agree as a ground rule for your communication/ relationship in the future that neither of you will act in a way that makes the other person feel intimidated?" "Can you also agree that it is OK to refuse to accept bullying behavior?"
24. "Can you agree that you will both listen to what each other is saying and not engage in or encourage bullying behavior?"
25. "B, is it acceptable to you if A lets you know in the future if s/he feels intimidated by you?" "If s/he does, can A raise it with you as a topic for discussion and negotiation?" "How would you like her/him to do that?"

These are relatively low-risk questions that can be asked of parties in conflict regardless of whether the issue is one of bullying or some other unwelcome behavior. Higher risk questions will usually appear as follow-up questions, depending on the answers to these questions. For example, "What price have you paid for that?", "What were you afraid would happen if you didn't do that?", "What would it take for you to give that up?" etc.

Remember that the object of each question you ask in mediation is to lead the parties to their own answers, not yours. Our object is to encourage them to discover, without blame or shame, their own authentic selves, then reveal this side of themselves to the other. If we take risks and ask difficult questions, each of them will listen more genuinely. From a place of anger or blame, it is difficult to hear anything but counterattack or defensiveness, but from a place of openness, vulnerability and introspection it is possible to discover another version or perception -- both of what happened and of each other, and on that basis to find common ground.

## MEDIATING DANGEROUSLY (EXCERPTS)

The words 'mediating' and 'dangerously' don't appear to belong together. Mediation is, in most of its manifestations, an amelioration of danger, a pacification of potentially dangerous wounded feelings, the creation of a safe space within which dialogue and negotiation can replace debate and power struggle.

Yet we know that conflict is laden with information that is essential for growth, learning, intimacy and awareness; that it represents an opening for change and an opportunity to let go of old patterns.

These outcomes are risky because they mean that we cannot retreat from the conflict but must face it, that we cannot continue to demonize the opposition as a way of asserting our own virtue, and that we must confront our own demons directly if we are ever to dismiss them.

The only way we can escape the gravitational tug of a conflict we have grown accustomed -- even addicted to, is by honestly confronting the underlying reasons we have become so committed to it; what we have gotten and lost by engaging in it; and what will eventually happen if we remain trapped by it. Unless, as mediators, we bring honesty to the resolution process, we will produce settlements that do not resolve the conflict, but merely silence it, producing not growth but reluctant acquiescence.

The purpose of mediation is to create a controlled "chain reaction," in which the conflict can explode safely without damaging those involved in it. The parties are permitted to discover their own truths through the medium of someone else's, and through the mediator's efforts to disarm the defensive mechanisms that keep the truth from reaching its real target. But the powerful emotions that are the reason for many mediations contain valuable information that is lost when the conflict is either suppressed or allowed to degenerate into accusation and counter accusation.

One way of defining mediation is that it is a way of combining the passion and learning that take place during warfare with the introspection and listening that takes place during peacetime. It combines empathy for both parties to a conflict with honesty about the way they have contributed to it. Passion and learning ultimately require introspection and listening. Honesty without empathy becomes brutal and judgmental, while empathy without honesty becomes sentimental and ineffectual.

While empathy consists of discovering the other within the self, honesty consists of owning the problem -- not equally with the other party, but entirely, as a means of self improvement that has *nothing whatsoever* to do with the other party.

Mediators have accumulated a substantial body of technique for building empathy, but little for generating honesty. Most mediators learn to "play it safe", using active listening and process skills to defuse the conflict, while cheating the parties of their ability to grow through confronting their own issues and internal conflicts.

Agreed, it is difficult for any of us to be deeply honest. Agreed, it is risky. Agreed, it can backfire and the mediator can lose the empathic connection that is required for deep listening. Yet to settle disputes without ever touching the underlying reasons for it, to hear self-justification take the place of self-examination, to watch as the downward spiral of rage and shame blocks real communication, is to mediate superficially, without risk or opportunity for fundamental change.

Conflict resolution is differentiated from conflict *suppression* by the use of honesty as a means of focusing the conflict, even intensifying it -- not as judgment, but as meaning. The meaning of any conflict is a proper topic for mediation -- both its collective meaning as a story of what went wrong, and its individual meaning for the participants, as a mirror into their own false expectations, unspoken needs and, challenges for personal development.

A few of the reasons it is important for mediators to make a skillful and sustained effort to move conflicting parties to deeper levels of honesty are that in conflict:

- Everyone wears a mask;
- Everyone perceives what happened differently;
- Both parties versions of what happened are accurate -- for them, as metaphor, or for anyone able to place themselves in that role or position;
- Both parties versions of what happened are distorted by the conflict;
- We rarely discuss what is really going on with those directly involved;
- We want to be kind more than we want to be honest;
- We tend to see the world egocentrically;
- We suffer in silence from self-doubt, poor self-esteem and self-denial;
- Our intentions are often different from their effects;
- Our feelings are often too important to discuss openly;
- We repress and externalize our emotions;
- We see from the inside out and find empathy difficult with those we dislike and those who dislike us;
- Lies, secrets and silence appear less risky and more powerful than honesty, sharing and communication;
- Aggression and self-protection, the "fight or flight reflex", is instinctual;
- Our willingness to take responsibility and self-awareness are distorted by our need for sympathy and support;
- Our view of the other person is affected by our desire to make ourselves appear right by making them appear wrong;
- The negative behavior we direct at others replicates itself in our own lives. We pass it back or pass it on;
- It is difficult to establish coherence or common understanding when we disagree;
- Anger makes us overly sensitive to the failings of others and insensitive to our own mistakes;
- We can easily forget what it is like not to be in conflict.

The dangers of speaking honestly are obvious. We take deliberate steps to protect ourselves from the truth because we know that consequences will flow from a shift in our awareness and that these consequences will re-define us, compelling us to leave the comfortable, albeit dysfunctional, ruts we have created for ourselves.

It is also dangerous to speak honestly because to do so is to accept the possibility that the other person will speak honestly back. Hence, we create a conspiracy of banality and non-engagement, encouraged in part by a fear that honesty and passion will not be held in check in either direction. In other words, we agree to speak superficially because we lack the willingness to be honest with ourselves, or the skill to control the chain reaction once we have started it.

Some of the rationalizations we use as mediators to justify keeping communication superficial and not risking honest communication with the parties are:

1. We don't want to hurt their feelings;
2. They may misinterpret what we say;
3. They probably won't be receptive;
4. It may put our relationship at risk;
5. We will become open to retaliation or counter-attack;
6. There's nothing in it for us as a settlement is possible without it;
7. It could backfire and the problem could get worse;
8. It could escalate and we are not supposed to increase the conflict;
9. We will be out on a limb and won't be supported;
10. Nothing will change anyway.

On the other hand, some of the reasons mediators ought to try to communicate more honestly with the parties include the following:

1. It is possible for us to communicate honestly without hurting anyone's feelings;
2. It is possible for us to communicate accurately so there is less possibility for misinterpretation;
3. They can't become receptive unless we try;
4. Without honesty, there can't be an authentic relationship;
5. If we act collaboratively, they won't respond defensively;
6. We increase our own self-esteem and skill and their opportunities for fundamental change through honest communication. If we succeed, we won't have to be bothered by the conflict any more;
7. The problem will get worse if we don't communicate honestly;
8. If it escalates, we can use conflict resolution skills to resolve the conflict at a deeper level;
9. If we risk being honest others may take that risk also;
10. Things begin to change when people begin communicating honestly with each other.

Developing our skill and technique at deepening the level of honesty in mediation requires that we learn techniques for obtaining greater levels of permission to be honest from the parties; techniques for confronting them in ways that do not increase their animosity toward one another or their defensiveness; and a willingness to risk being more deeply honest with ourselves.

Any truth I elicit from others requires an openness to hearing that same truth about myself. In this way, mediation is not so much a third party as a three party process, in which the mediator models empathic listening, risky questioning, and equanimity in hearing painful answers. Where the mediator remains outside the conflict, little is risked and honesty remains superficial. But where the mediator joins the conflict by creating an empathic connection with both sides, and affirms honesty and listening as

personal values, the parties find themselves becoming more open to hearing painful, yet truthful information about themselves.

The purpose of increasing depth and honesty in mediation is to encourage both sides to take full responsibility for their lives and choices, not based on what the other party said or did, but based on their own sense of values and integrity. While nearly everyone in conflict begins with demonization and excuses, our growth requires that we learn from the conflict, and discover how to avoid similar problems in the future.

Most people avoid being deeply honest about their conflicts in order to avoid taking responsibility for their actions, and thereby avoid being blamed for them. We use many methods to avoid taking responsibility for the conflicts we create and fuel, as by:

- Building ourselves up by putting others down;
- Telling others only what we think they want to hear or ought to know;
- Lying;
- Being vague;
- Attempting to confuse others about our responsibility;
- Minimizing the seriousness of the problem or our involvement with it;
- Diverting attention to other problems;
- Assenting -- saying "yes" without meaning it;
- Being silent;
- Paying attention only to what suits us;
- Saying we "didn't mean it";
- Accusing others of misunderstanding while denying our own;
- Generalizing to the point of absurdity;
- Putting off doing something about it -- Saying: "I forgot";
- Claiming we have changed;
- Putting others on the defensive by attacking them;
- Running away from the problem;
- Blaming the system or someone else for the problem;
- Claiming we were too busy or there were more important things to do;
- Denying we ever agreed to do it.

Our effort to deny responsibility for our conflicts ignores the fact that they could not happen without our active participation, and that responsibility extends not simply to those who act and should not, but to those who do not act and should. Responsibility belongs to those who did it, those who ordered it done, those who proposed it, those who profited from it, those who supported it, those who justified or applauded it, those who defended it, those who obscured it, denied it, or covered it up, those who knew about it and did nothing to stop it, and those who ought to have known about it but chose to disregard it, or in other words, everyone within reach of the conflict.

The primary goal of honesty in mediation is to help the parties choose to become more responsible and grounded, both with each other and with themselves. We do this by asking questions, by seeking permission to give honest feedback, by presenting that



feedback as though it were we who were receiving it, by supporting and applauding the willingness to hear it, by modeling, and by many other techniques. As mediators, for example, we can support honesty as well by:

- Giving ourselves an honest appraisal;
- Not taking critical comments personally;
- Searching for underlying issues;
- Drawing honesty out and using anger to create self-awareness;
- Telling the truth and speaking the unspeakable;
- Listening to and acknowledging honest responses;
- Expressing a willingness to reassess our own positions;
- Surfacing and discussing covert behavior;
- Being unwilling to engage in covert behaviors ourselves;
- Helping the parties take baby steps toward honest dialogue;
- Looking for ways of reconnecting and re-integrating the parties with each other;
- Searching for ways of honest expression that allows them to save face;
- Identifying specific examples of problem behaviors and inventing ways of correcting them;
- “Unhooking” both ourselves and the parties from judgments about each others personalities and motivations;
- Approaching the mediation with the goal of mutual self-discovery;
- Describing the parties behaviors in non-judgmental terms;
- Sharing our perceptions of the effects these behaviors might naturally have on the other party;
- Letting the party who engaged in the behavior explain their intent or motivation, and then probing deeper;
- Helping to clarify the differences between intent and effect;
- Surfacing alternative ways of achieving the parties true desires.

Taking risks with honesty is not easy and should not be done casually or without being willing to work through the issue. There are obvious dangers for mediators who are not trained in psychology or experienced in the sensitive art of intimate, painful communication. For this reason, only small risks should be taken in the beginning, and only after a deep look inward.

Every technique in mediation can be made more or less hard-hitting. The real object of mediation technique is to create listening and honest self-examination, to reveal the parties inner natures to each other, to identify their ineffective behaviors and the origins and purposes of those behaviors, and to increase their awareness and acceptance of themselves, and thereby their capacity for personal and interpersonal growth.

Mediating dangerously means using empathy to push the limits of honesty so that a transformation can take place through self-awareness and acceptance. In the end, the

only barrier to promoting self-awareness and growth through mediation is our own willingness to be honest with others and ourselves. The true danger lies not in honesty but in superficiality and a refusal to learn from conflict. As Gertrude Stein wrote, "Considering how dangerous everything is, nothing is frightening."

### THE DANGERS IN HEARTFELT COMMUNICATION

Because transcendence implies fundamental change, any communication that makes transcendence possible leads into "dangerous," uncharted territory. In these exchanges, traditional analytical conflict resolution techniques are of little use, and may even cause emotions to escalate and resistance to harden. Whenever we resort to emotional or heartfelt communications to resolve our conflicts, it is a clear indication that deep-seated issues are at stake.

Every open-hearted conflict communication is dangerous—partly because no one ever gives unambiguous permission to fully resolve their conflicts; partly because permission to stop a fight or settle a dispute does not translate into permission to resolve the underlying reasons that gave rise to it or reach forgiveness and reconciliation; partly because every transformation or transcendence represents a breakthrough that could not have been imagined or consented to at the time permission was given; and partly because every genuine breakthrough dramatically transforms people's lives, changing even what is considered acceptable.

Among the many dangers for mediators in initiating open, honest, heartfelt communications between people in conflict, most fall roughly into two categories: those that are readily apparent and could result from any effort to resolve conflict; and those that are more subtle and stem from efforts to create deeper, subtler, more profound understandings. The readily apparent dangers include

- the danger that we could escalate the conflict further;
- the danger that there could be physical violence;
- the danger that we could be subjected to other people's intense emotions;
- the danger that we could have to revisit our own emotionally painful experiences;
- the danger that we could do or say things we do not mean, or become someone we do not like;
- the danger that we could increase resistance and make resolution less likely.

The deeper, subtler, and more profound dangers include

- the danger that we could discover we are wrong and feel compelled to change our minds and behaviors as a result;
- the danger that we could never resolve the underlying issues for our conflict and be condemned to repeat it;

- the danger that we could continue lying to ourselves about what we have done;
- the danger that we could not tell the truth to someone whose life might change as a result;
- the danger that we could be required to change our *own* lives and suffer consequences we are not prepared to accept;
- the danger that nothing will ever change;
- the danger of not ever finding out who the other person is;
- the danger of not ever waking up to who we really are;
- the danger that we could have to forgive our enemies, or worse, ourselves;
- the danger that the conflict will cease, and we will stop growing because there is no more danger and no one asking us to improve.

Openhearted communications are especially dangerous in these latter ways, each of which defines a moment when playing it safe becomes more dangerous than taking risks. When we take risks in conflict, we wake up, face our fears, pay attention to details, drop our egos, become more humble, operate out of the center of who we are, connect more authentically with others, and think creatively. Yet, in doing so, we transform our conflicts and no longer face the same kind of danger. [For more on this subject, see *Mediating Dangerously: The Frontiers of Conflict Resolution*, Jossey Bass/Wiley Publishers, 2001.]

To encourage dangerous, transcendent, heartfelt conflict communications, we need to navigate a middle passage, and simultaneously avoid the twin traps of well-intentioned, hypersensitive, mindlessly sentimental, pop-psychological, superficial, endless emotional processing; and manipulative, insensitive, hardheaded, dispassionate, emotionally disconnected legal or logical analysis. Communicating with the heart is highly intuitive, holistic, sensuous, and circular, and cannot be accessed using techniques or attitudes that are excessively emotional, chaotic, abstract, and sentimental; or exclusively rational, reductive, linear, and insensitive. To avoid these pitfalls, we need to be clear not only about *what* we want to communicate, but when, how, to whom, and most importantly, *why* we want to communicate it.

The goal of heart-to-heart communications in conflict resolution is to encourage profound, poignant, authentic, intimate connections that dissipate conflict at its deepest location inside each person—in their “hearts.” Heart-based communications in mediation are less about professing love for others than recognizing their pain, releasing them from false expectations, and helping them transcend what got them into conflict in the first place. For this reason, the deepest dangers in heartfelt conflict communications lie not in what people say outwardly to their opponents, but what they realize inwardly about themselves.

## CLUES REQUESTING HEART-BASED CONVERSATION

Clues that signal a person's desire for spiritual or heart-based conversations or deeper order of resolution may initially take the form of a trivial statement that *begs* to be contradicted. Here are three examples of such statements followed by my translation and some initial questions that can deepen the conversation:

1.     *Declaration:*                     “He doesn’t think I’m a very good person.”  
       *Translation:*                    “I don’t think I am a very good person, am vulnerable to what he thinks of me, and am exaggerating what he thinks because I need some reassurance that he doesn’t hate me.”  
       *Opening Questions:*            [to the other person] “Is that right? Do you think she is not a very good person?” [to her] “Why does it matter to you what he thinks?”
  
2.     *Declaration:*                     “*She did it for no reason.*”  
       *Translation:*                    “I really don’t know why she did it but am afraid to ask because she could have done it because of something I did that I don’t want to admit, or for some reason that will force me to stop playing the victim.”  
       *Opening Questions:*            “Would you like to know why she did it? Why don’t you ask her?”
  
3.     *Declaration:*                     “*He’s lying.*”  
       *Translation:*                    “*What he said does not match my experience, I feel defensive about what he said, and I need him to listen to my experience before I can listen to his.*”  
       *Opening Questions:*            “*What truth do you see that is not reflected in his statement?*” “*What do you think is the underlying truth he is trying to communicate to you?*”
  
- D.     *Declaration:*                     “*I don’t trust her.*”  
       *Translation:*                    “*I am feeling insecure about what is going to happen, distrustful about her intentions regarding me, and need to hear that she is really committed to making this relationship work.*”  
       *Opening Questions:*            “*What are you afraid she will do?*” [to the other person] “*Is that what you intend to do? Why not? Do you want this relationship to work? Why?*”

## 20 TECHNIQUES TO CREATE OPEN-HEARTED CONVERSATIONS

1. Meditate or center yourself by spending a quiet moment before beginning the mediation and sense your own heart opening
2. Welcome people warmly and hold eye contact a moment longer than usual
3. Begin with questions, invocations or invitations directly to the heart such as those listed below
4. Engage in committed, open-hearted listening, as though *your* life depended on what you hear
5. Listen for “soft spots,” “power words,” intense emotions, exaggerations, accusations and denials as clues to the parties’ perspectives and “state of heart”
6. Use empathy to search for the center of the conflict within yourself
7. Clarify the hidden heart-meaning of metaphors in conflict stories
8. Ask questions to learn whether your insights are accurate
9. Honestly and empathetically communicate your deepest insights
10. Observe closely to detect mood, cadence, rhythm, body language and what is not being said
11. Search for profound alternatives to the platitudes that fill most conflict conversations
12. Ignore the scripts that keep conversations safe, and move into profound, poignant territory
13. Take risks, surface what is hidden, speak the unspeakable, and touch what is most sensitive
14. Interrupt circular conversations with questions that spiral inward toward the center of the conflict
15. Ask questions to reveal what is deeply desired, even if it is initially dismissed
16. Ask people to respond directly to each other and speak or listen from their hearts
17. Create openings to forgiveness and reconciliation
18. Collaboratively analyze and critique the systems and cultures that produced or reinforced the conflict
19. Design rituals of release, completion, and closure
20. End with heart-felt acknowledgements and appreciations

### 30 QUESTIONS TO OPEN HEART SPACES IN MEDIATION

1. Before we begin, can you tell me a little about yourselves?
2. What do you hope will happen as a result of this conversation? Why is that important to you?
3. Why are you here? Why do you care? What did it take for you to be willing to come here today?
4. What kind of relationship would you *like* to have with each other? Why?
5. What is one thing you like or respect about each other? Can you give an example? Another? How does it feel to hear each other say these things? What would happen if you said them more often?
6. Is there anything you have in common? Any values you share?
7. What life experiences have you had that have led you to feel so strongly about this issue?
8. What role have you played in this conflict, either through action or inaction?
9. If you had 20/20 hindsight, what would you do differently?
10. Is there anything you would like to apologize for?
11. On a scale of 1 to 10, how would each of you rank that apology? What could you do to make it a 10? Are you willing to try right now?
12. What is one thing you would like him to acknowledge you for? What is one thing you are willing to acknowledge him for?
13. What do you think she was trying to say in that apology/ acknowledgment? [To her] Is that accurate? [If not] Would you like to know what is accurate for her? Why don't you ask her?
14. How would you evaluate the effectiveness of what you just said in reaching her? How could you make it more effective? Would you like some feedback? Why don't you ask her?
15. Is this conversation working? Would you like it to work? *Why* would you like it to work? What is one thing she can do that would make it to work for you? [To

her] Are you willing to do that? Would you be willing to start the conversation over and do those things now?

16. What is the crossroads you are at right now in your conflict?
17. Will you ever convince him you are right? [If not] When will you stop trying?
18. What would you most like to hear her say to you right now?
19. What would you have wanted him to have said instead?
20. What does that mean to you? What other meanings might it have? What do you think it meant to her? Would you like to find out? Why don't you ask her?
21. Can you imagine what happened to him also happening to you? What would it feel like? Would you like to know what it felt like to him? Why don't you ask?
22. Would you be willing to take a moment of silence right now to think about that?
23. Has anything like this happened to you before? Who? When?
24. What are you *not* talking about that you still need to discuss?
25. What issues are you holding on to that the other person still doesn't know about?
26. What price have you paid for this conflict? What has it cost you? How much longer are you going to continue paying that price?
27. What would it take for you to give this conflict up, let go of what happened, and move on with your life?
28. Do you really want this in your life? What would it take to let it go?
29. What would change in your life if you reached an agreement?
30. If this were the last conversation you were going to have with each other, what would you want to say?

## INTERNALIZING QUESTIONS

1. Have you ever experienced this kind of conflict before? When? With whom? Do you see any patterns?
2. Can you imagine letting this conflict go, and releasing it forever? If not, why not?
3. What kinds of conflicts have you experienced in the course of your life? What do they seem to have in common?
4. List some of the things in this conflict you *didn't* do but should have. What kept you from doing them?
5. List some of the things you *did* do but shouldn't have. What compelled you to do them?
6. What part of your past seems to control your present? What would change today if your past were different?
7. How much of what you have done in this conflict do you think was chosen by you? How much by others?
8. Who wrote the script for what you did (or did not) do (cite a specific behavior)? When? Why?
9. What myths and assumptions do you think may have shaped this script and influenced your life choices?
10. What is the crossroads in your life that this conflict has taken you to? Where is each road heading? Which road do you want to take?
11. What is this conflict asking you to learn or let go of?
12. Is there any difference between what you thought or felt and what you said? Was it your ego or your "I," that did that?
13. What are the three most important things you have learned in the course of your life? How many were learned through conflict? Who learned them, I or ego?
14. What do you feel are the consistent themes or central threads of your life?



15. What judgments do you have about yourself based on your failures? Do these judgments come from ego or I? How have these judgments limited your life choices?
16. What were your peak experiences? Was it ego or I that did them? What were your greatest failures? Was it ego or I that did them?
17. As between your I and your ego, which do you feel is more lasting and authentic? Which would you rather be?
18. What do you never, ever want to experience again? What do you think will prevent you from doing so?
19. List some things you might do tomorrow to change your life in a positive way. What would you gain by doing them?
20. List some of the reasons for *not* doing anything to change your life. What would you gain by not doing them?
21. What do you imagine your life will be like in 5 years if you don't decide to change it in a positive way?
22. What epitaph would you write for yourself? How would it read if it were written about how you acted when you were in conflict? How would you like it to read?

## SOME DANGEROUS QUESTIONS

There are some questions that are deep, profoundly personal and dangerous, yet can produce extraordinary insights by drawing people's awareness inward to the secret source of the conflict within themselves. Several were developed by our friend and colleague Peter Block, and should primarily be used in caucusing, coaching, or for homework. For example:

- What have you done to create the very thing you are most troubled by?
- What have you been clinging to or holding onto that it is now time for you to release?
- What are you responsible for in your conflict that you have not yet acknowledged to the other person?
- What do you most want to hear the other person say to you that you still haven't mentioned?
- What do you long for in your relationship with the other person?
- What is the refusal, or "no" that you have not yet communicated?
- What is the permission, or "yes" you gave in the past that you now want to retract?
- What is the resentment you are still holding on to that the other person doesn't know about?
- What is the promise you gave that you are now betraying?
- What is it they or you did that you are still unwilling to forgive?
- What price are you willing to pay for your refusal to forgive? How long are you prepared to continue paying that price?
- What promise are you willing to make to the other person with no acknowledgement or expectation of return?
- What gift could you give the other person that you continue to withhold? Why?
- What are you prepared to do *unconditionally*, without any expectation of recognition or reciprocity by the other person?

These are only a few of the hundreds, perhaps thousands of questions mediators can use to encourage people to deepen their conversations and listen or speak from their hearts. Their wording is less important than the sincerity, desire for real connection, authenticity, honest introspection, and acceptance of the listener communicated in part by the body language, tone of voice, intention, and attitude of the mediator. Therefore, if any of these questions feel uncomfortable or inappropriate, it is better not to ask them.

## CONFLICT AS A SPIRITUAL JOURNEY

One of the opportunities that lies hidden in our conflicts is a journey of the spirit, a journey of growth and transformation that only takes place when we watch and learn from our conflicts. As we do so, we begin to discover "the Zen of conflict resolution," which consists of the following:

1. *Caring as deeply and being as empathic with the other person as possible, while at the same time not forgetting about ourselves;*
2. *Being as deeply and openly honest with the other person as we can, while at the same time not judging them; and*
3. *Caring as deeply as possible about fairness and justice, without caring one bit what the other person chooses to do.*

If we are honest without being empathic, people will respond to us defensively, and we will appear brutal. If we are empathic without being honest, we excuse or ignore destructive behavior, and they will be unable to learn or grow from their conflicts. If we become invested in their choices, we appear to control them, and violate the boundary that separates us.

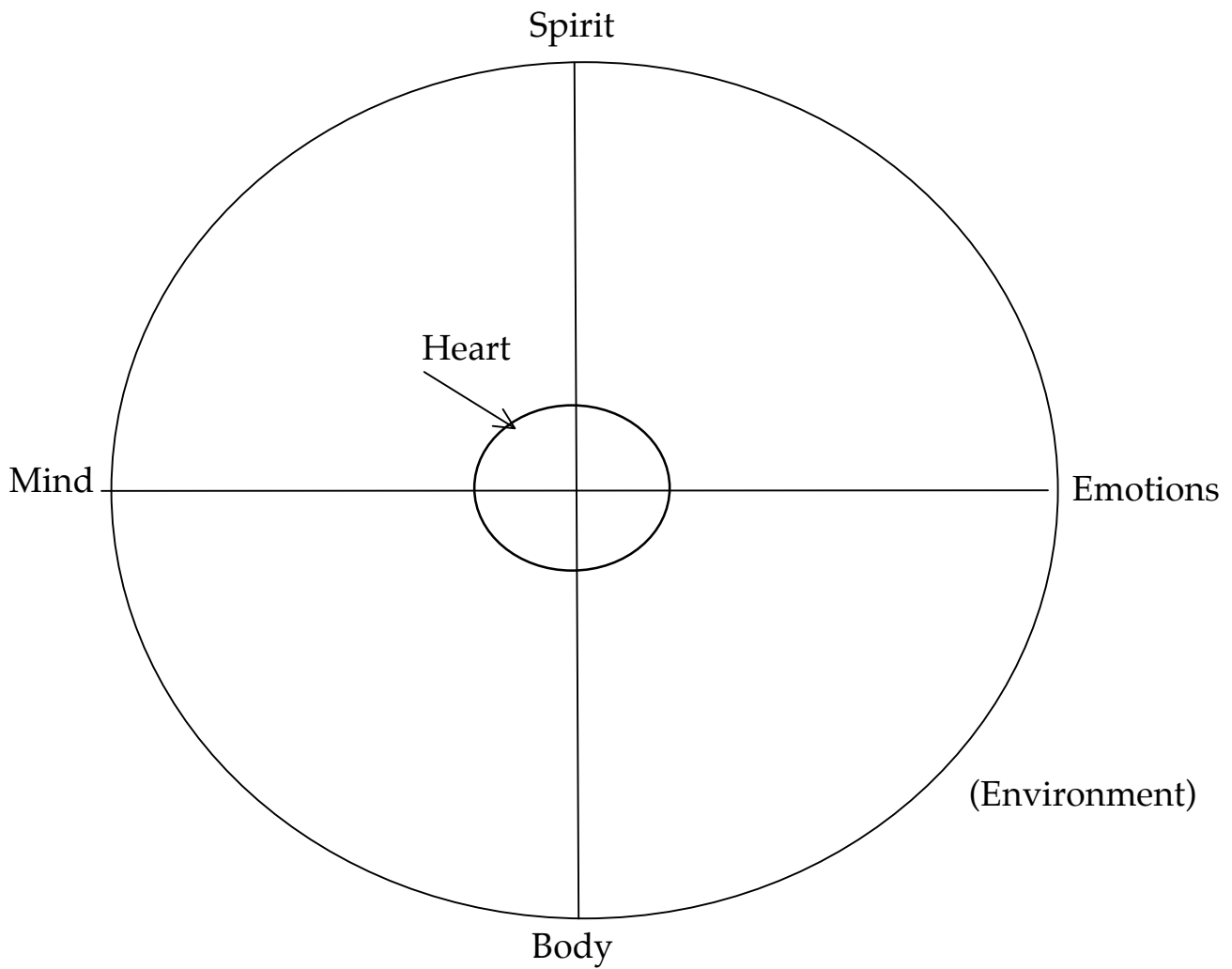
Approaching conflict as a journey requires us to give up our illusions, both about ourselves and about others, and to stop seeing ourselves as victims and others as the enemy. In the process, we discover that it is not merely the conflict that is being resolved, but the reflection of that conflict within ourselves.

### **Why Spirit?**

We know that conflicts and resolutions take place in physical, intellectual and emotional spaces. Body language and gesture, ideas and reasoning, emotions and feelings all influence our interpretation of conflict, and our choice of appropriate resolution procedures. Why not spirit as well?

Several Native American cultures begin the conflict resolution process and center it around the spirit. Their medicine wheel points in four directions, the first of which is toward the spirit, as is shown in the following chart:

# Native American Medicine/Spirit Wheel



## **Resolving Conflicts With, By and For the Spirit**

Conflicting parties often announce that they are "miles apart". The reality is that they are inseparable. What can we do if we want to reveal this to them? How can we resolve our conflicts with, by and for the spirit?

Trying to resolving our conflicts *with* the use of spirit suggests that we create not only physical, intellectual and emotional, but spiritual contact with the other person; that we talk openly about our spiritual needs or desires, and ask the other person to do the same; that we encourage the opening of direct heart-to-heart communication between us; and we look for ways of incorporating spiritual goals into our agreements; and that we comment on the spiritual dimension of our process.

Conflict resolution *by* the spirit implies that we become aware of a full range of possibilities for intervention, including spiritual. It suggests that it is not principally the physical, intellectual or even emotional sources of strength within us that nurture the desire to settle, but our attitudes and empathic energy which, for want of a better word, we call spirit.

Conflict resolution *for* the spirit focuses on us -- not as martyrs to settlement, or even forgiveness, but as participants in a transformation process with an interest in our own physical well-being, intellectual stimulation, emotional communication and spiritual fulfillment.

By starting with a focus on spiritual goals, not religious ones, primacy is given to the desire for forgiveness and reconciliation; to results that are consistent with integrity; to meeting human needs and desires, rather than dividing property or cash; to acknowledgment and respect, and to improving relationship, deep levels of communication, and self-esteem.

The true subject matter of most disputes has less to do with power, position, money, or law, than with respect, honesty, trust and communication. While a knowledge of law and finance are useful in resolving many disputes, an understanding of the dynamics of shame and self-respect are equally useful in resolving emotional disputes, and a sensitivity to spiritual issues is useful in moving conflicts in the direction of forgiveness.

The difference between a conflict resolution process that is conducted for financial gain and one that is conducted for spiritual growth and transformation is like the difference between looking and seeing, listening and hearing, accepting and realizing. What gets left out is precisely the "whole", the essence, the life or spirit of the other person, the dispute, and ourselves.

### **Defining the Undefinable**

There is no adequate definition of spirit, nor is it likely one is possible. To define it means to define life, and the more specific one becomes, the less one understands of the whole. Any attempt to define the whole simply destroys it, reducing it to a mere sum of its parts.

Spirit is undefinable also because the act of definition collapses and freezes what it seeks to define. It exists in *being*, rather than in thought, feeling or sensation. It resides in no organ of the body, yet in all of them. It is expressed physically, intellectually and emotionally, yet is none of them. It is present in intelligence and stupidity, success and failure, rage and surrender, yet consists of none of them.

Defining spirit is, in the language of Zen, like riding an ox in search of an ox, or putting legs on a snake -- actions which are both self-defining and useless. Precisely because of the breadth of imprecision, there is a danger in defining spirit too broadly, to include specific religions or spiritual practices.

It is unnecessary to describe spirit from the perspective of religion, or to postulate the existence of a moral, personal god who is outside us, in order to gain a deeper understanding of spirit. Spirit is not an occult or religious mystery. These mysteries are a romanticization of confusion, or an expression of desire, and desire fuels the ego, which leads away from spirit. Truth is to be found not outside, but inside; not beyond but within.

I do not mean to suggest, for example, that we should impose our own spiritual practices on others, but rather that we be sensitive to the existence of the life force that connects us, both in ourselves and in others, and that we avail ourselves of its energy.

The first requirement for doing so is simply recognizing that a part of what is resolved in every dispute is spiritual, rather than physical, intellectual or emotional. Everyone in conflict confronts not only the other, but also the self. This exercise of empathy, of seeing the other as self or the self as other, is an act of the spirit rather than of the intellect or the emotions.

### **What, then, is Spirit?**

Our consciousness is made up, fundamentally, of two parts: a part that senses, feels and thinks, and a part that is aware of what is being sensed, yet is itself without sensation; that observes what is being felt, yet is without feelings; that knows what is thought, yet is without thinking.

While this deep level of awareness that we call spirit cannot be expressed in words, yet it has the capacity of focused attention, memory and the ability to learn. Spirit, or essence, is the simple self-awareness of babies and those who are dying. It is the selflessness of saints and the source of artistic expression. It is the recognition of our oneness and our interconnection with all things. We can call it spirit, soul, illumination, energy, life force, or mind, but what it consists of is a union of emptiness, awareness and connectedness.

A well-known Zen poem reads:

*Now that my house has fallen down  
I have a much better view of the moon.*

These characteristics of consciousness have two orientations or directions: outward and inward. Many of us apply our attention to others more readily than to ourselves, and do not focus our attentions inward, or if we do, we confuse ego with spirit. Often, we are unable to see our true nature for fear of what we may find there. Yet there is a paradox here, which can be expressed as follows:

1. The way to awareness is to study the self.
2. To study the self is to forget the self.
3. To forget the self is to become your self.

What are the sources of spirituality? Nietzsche said it was shame or humility before something greater than our selves. But spirit can be better understood as our original self, while ego is our social or cultural self, our constructed, role-bound, and in some

sense, false self. The death of this false self is the birth of spirituality, or essence. As St. Francis of Assisi wrote: "Who we are looking for is who is looking."

We know that every external action creates an internal response in the way we define ourselves, just as every internal change in our self-definition alters our understanding and relationships with those who are around us. But our outward orientation and inward contemplation are intertwined. In this way, our external conflicts (and resolutions) are reflected inwardly, just as our internal conflicts (and resolutions) are projected outward.

We often operate under a mistaken assumption that what we do when we are in conflict is more important than who we are. But we are not reducible to our actions any more than we are to our thoughts, our emotions, or our senses. We are also the observers of these parts, and are the whole that is greater than the sum of them.

In an ancient Zen problem, two monks debate which is moving, the flag or the wind. A third answers that it is neither, but the mind that is moving. But all movement is relative, and in the absolute domain, in the universe as a *whole*, nothing moves -- not the flag nor the wind nor the mind -- since there can be no difference between them, and there is nothing left to move. Einstein came to the same conclusion about the relativity of movements in time and space.

As a consequence, we can see that our conflicts are all a matter of perception; they vanish when we see them as a part of the whole. Where, then, do they come from, and where do they go?

### **Alternative Definitions of Spirit**

Here are some other definitions of spirit that, by circling around it, may give us a better sense of what lies at their center:

1. *Spirit is essence.* Not the essence of action or thought or behavior, or what prompts behavior, or even the sum or average of all the behaviors of one's life, but of something that predates behavior yet is molded by it.
2. *Spirit is the life force.* It is the animating principle. It is the Wholeness that cannot be expressed by any of the parts, and it is the Implicate Order that is hidden in the whole. Where is life located in the human body? Where does love originate? If it cannot be located in any one place yet exists, it can be called spirit.
3. *Spirit is the ground of existence.* It is what is left after our physical sensations, thoughts and emotions have been resolved or quieted themselves.
4. *Spirit is the expression of infinity in life.* Certain simple physical and mathematical operations regularly produce infinite results. At its simplest level, no circle can be described without reference to *pi*, an infinitely long number. To the circle of the self, *pi* is spirit, a finite window opening onto the infinite.
5. *Spirit is the way we are all distinct, yet inseparable.* Each wave is distinct, yet not separate as each is a part of the same ocean. Whatever happens in one place affects the entire ocean. Every ripple in the ocean is the sum and expression of all the waves that have shaken it.

6. *Spirit is our feeling of connection to the universe.* Whatever we do is something that happens to the entire universe, because we are not separable from it, but are a part of the whole. The poet Li Po wrote:  
*"We sat together, the forest and I  
Merging into silence  
Until only the forest remained."*
7. *Spirit is the moment when we all become one.* These moments occur accidentally, without planning, when we are in love, in emergencies and crises, in the midst of overwhelming natural beauty, during meditation, in popular political movements, during love-making, in forgiveness and reconciliation, and whenever we feel a deep sense of connection through empathy or compassion for another.
8. *Spirit is our collective unconscious.* It is our capacity for synchronous action. A house is different from a home in the same way a block is different from a neighborhood, a city is different from a community, or a committee is different from a team.
9. *Spirit is a hologram of the self.* Each part of us contains the whole in the same way that every piece of a hologram contain its whole image. Things that strengthen the self and the spirit include:
  - The willingness to suffer without a desire for retaliation.
  - The willingness to serve without a desire for remuneration.
  - The willingness to apologize for and forgive crimes committed by ourselves and others.
10. *Spirit is love.* It can be found in:

<ul style="list-style-type: none"> <li>• Compassion</li> <li>• Awe</li> <li>• Creativity</li> <li>• Heart knowledge</li> <li>• Communication</li> <li>• Silence</li> </ul>	<ul style="list-style-type: none"> <li>• Interdependence</li> <li>• Affection</li> <li>• Giving</li> <li>• Wisdom</li> <li>• Authenticity</li> <li>• Play</li> </ul>
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### 25 THINGS YOU CAN DO TO STRENGTHEN SPIRIT

The following acts tend to strengthen our spirits and define our Selves more clearly:

1. Acting on principle
2. Taking risks
3. Giving to others
4. Cultivating awareness
5. Radical acceptance
6. Paying attention
7. Sharing
8. Teamwork
9. Empathy
10. Loving ourselves and others
11. Forgiving others and ourselves
12. Passion
13. Humor



14. Silence
15. Self-discipline
16. Making choices
17. Changing patterns
18. Surpassing our limits
19. Rituals and ceremonies
20. Surrendering attachments
21. Unconditional caring and respect
22. Being authentic
23. Dedicating or consecrating to the benefit of others
24. Sacrifice of something important
25. Dedication to a higher purpose

### STAGE III: SOLVE THE PROBLEM

#### **It is Important to Identify Which Issues Need to be Solved.**

- \* Mediators should focus on the issues that are of mutual interest to both parties.
- \* Parties need to agree that the issues stated by the Mediators are in fact the issues.
- \* Parties should be asked if there are any issues the Mediators have missed and those issues should be added to the agenda.
- \* Issues should be resolvable ('yes' or 'no', 'true' or 'false' issues are not resolvable). Remember your job as a Mediator is not to determine guilt or innocence.

#### **It is Important to Have an Agenda for Issue Solving.**

- \* Mediators, not parties, should decide in which order the issues should be solved.
- \* One strategy is to start with the easiest issue. This helps to begin the process of agreement between the parties.
- \* An opposite strategy is to begin with the hardest issue. Once you solve the hardest issue, all of the other issues are usually solved very easily.

#### **The Mediators Should Decide Who Talks First.**

- \* It is important to continue to maintain control of the session.
- \* If there are multiple issues to solve, alternate the order in which the parties talk, so that the same person does not always speak first.

#### **When Restitution is Involved in the Solution, It is Important to Establish Value.**

- \* During the initial phone call to the victim, the mediator should have told the victim to bring in his/her verification of the value of the item/s in question.
- \* Obviously if the victim brings receipts, value is most easily established.
- \* Estimates of work to be repaired are a good way to establish value. The victim should bring several different estimates.
- \* The question of whether to establish value based on the original price of the item or the current price of the item needs to be decided. If the current price is used, price comparisons for similar item/s can easily be made.
- \* It is appropriate to think about the value of non-monetary items, such as the amount of lost work time, long distance phone calls, car rental, etc.
- \* The time the victim spends in mediation or other time or costs related to the actual mediation sessions should NOT be considered a part of the restitution.

#### **The Non-Restitution Issues are Often More Important Than the Restitution Issues.**

- \* Often the need to apologize or be apologized to is far more important than the restitution. Encourage the parties to express their feelings of remorse and forgiveness. This is where the magic of mediation happens.
- \* If the parties want to write in non-monetary solutions, allow them to do so.

#### **If the Parties are Ready, Let Them Talk Directly to Each Other.**

- \* Sometimes the parties will just begin talking to each other. If this happens in a way that is productive, allow it to continue.
- \* If you feel the parties are ready to talk to each other as indicated by their tone of voice and what they are saying ask them to do so by saying, "John, why don't you say that directly to James."

## BREAKING THE COMPULSION TO SOLVE PROBLEMS

It is quite seductive to show others how to solve their problems or prescribe solutions they have to implement. It is easy to jump at the first answer, the quickest way out, the solution that costs the least. The more difficult, paradoxical approach is to resist this compulsion and learn to *live* with the problem, to analyze it in depth and consider it from all angles. Not only will the problem become clearer, the solution will be more elegant, multidimensional, and longer lasting and something more important may be learned in the process.

A first principle of this approach is that people have a *right* to their problems. By stepping in and solving them, we cheat them out of owning important parts of their lives, of learning from their experiences, and of discovering that they are fully capable of finding solutions themselves. We are drawn to solve other people's problems, partly because it makes *us* feel powerful and helpful, partly because it is easier to solve their problems than our own, and partly because we do not have to live with the consequences. To find immediate solutions to their own problems, however inadequate, they would at least preempt outside solutions.

We contribute far more to solving problems by stepping back for a moment and reflecting first not only on how, but whether, why, and who should solve them. If you want to break this compulsion and recognize that problem solving is a *choice* rather than a necessity, here are five sets of questions to consider:

1. You have solved thousands of problems and learned a great deal in your life. How open are you to the possibility that what you have learned is now irrelevant or wrong? How do you manage to stay in touch with your ignorance? How good are you at unlearning? How able are you to live in the present without focusing on past problems or future solutions?
2. You have learned countless ways to solve problems. Have you also learned how to *not* solve them? How willing are you to live with paradox, riddle, polarity, and enigma? Do you understand that by solving your problems too quickly, you could cheat yourself out of learning from them?
3. You know how to make things happen. Do you know how to let them happen naturally and fluidly on their own? Do you know how to not intervene? Can you let things happen to you, or simply watch them as they happen? Are you addicted to controlling the outcome or the process?
4. You understand a great deal about what is. Do you also understand what is *not*, and what could be? Do you see not only what, but *who* is in front of you? Do you understand that *what* you understand includes the nature of your own understanding?
5. You have developed a number of strengths and achieved successes. Do you recognize that for every strength, there is a corresponding weakness? Do you understand that continued success leads to complacency, while failure leads to learning and change? Are you certain which is the success and which the failure?

It is tempting for mediators to think they know how to solve other people's problems. Yet everyone solves problems differently and a solution for one person may not work for another. The universe offers an *infinite* number of paths to reach the other side of

the room, and no two people will follow exactly the same path. The real danger lies in thinking we know the one correct answer and deciding to enlarge our egos at the cost of reduced skills in the person who has to live with the results.

By *not* offering quick solutions, we encourage others to discover their own. This does not mean abdicating or abandoning. On the contrary, if we can provide just enough useful ideas, information, perspective, and support, we can encourage and assist them in finding solutions without solving their problems for them. The art of waking people up lies in knowing when to offer ideas and when to withhold them, how to support someone in grappling with difficult issues without taking charge, and how to help employees find their own unique way through the maze, transcend their problems, and feel they did it themselves.

### **Obstacles to Problem Solving**

In addition to the compulsion of problem solving, there are other paradoxical, subtle, and challenging obstacles confronting those who want to assist others in waking up and solving their problems. Among these, the most counterproductive are seeing problems as negative, becoming addicted to the problem or the solution, identifying the wrong problem, solving the problem unilaterally, and failing to learn from the problem. The sections that follow describe these obstacles in greater detail, together with our reflections and strategies for overcoming them.

- *Seeing Problems as Negative*

Most of us think of problems as unpleasant and experience intense anxiety when we confront them. This reaction causes us to procrastinate, then solve them quickly and try to make them go away. But when we adopt a positive attitude toward problems, we open possibilities for resolution through imagination and creativity. Seeing problems as adventures frees us from seeing them as threats. If we can see complaints, difficulties, glitches, and mishaps as opportunities for improvement, gateways to the discovery of new ideas, adventures, and sources of breakthrough in achieving better results, we will embrace our problems and no longer see them as negative.

- *Becoming Addicted to the Problem or the Solution*

There are times when we need our problems more than we need their solutions, when their solutions are too close for us to recognize, or we want them too badly. Often, we know intuitively that resolution will result in change, learning, and transformation, and tend to prefer the problems we know to the ones we don't. The possibility that we could create a better outcome can seem too wonderful to accept, or the specter of worse possibilities can cause us to get stuck in a rut with no idea of how to escape.

Yet, in each of these cases, the solution is *already* contained in the problem. Through source of our addiction by introspection and analysis, we can get closer to the problem, identifying what we think will happen if the problem is solved or not solved, and trying to solve that problem first. Through honest feedback, teamwork, and dialogue we can create enough personal distance from the problem to see it as though from above, understand the results of solving it more clearly, and use collaboration to reveal solutions that cannot be discovered by working alone.

- *Identifying the Wrong Problem*

Sometimes we cannot solve our problems simply because we have identified the wrong problem, or defined it in ways that are vague or competing. What appears to be a single problem may actually be multiple problems tangled together, or involve unseen issues with superficial problems hiding deeper problems beneath their surface. Often the *real* problem is that our goals are unclear or conflicting, or we are unable to communicate clearly about what is bothering us. Often we are afraid to rock the boat, or haven't considered all the options. Sometimes we are unsure how to evaluate our success, or lack the motivation to follow through and implement our choices. In these situations, our inability to solve the problem merely reflects the fact that there is another problem we have to solve first.

- *Solving the Problem Unilaterally*

Problem solving should not be a lonely or solitary endeavor, but is most effective and enjoyable and works best when it is inclusive, participatory, and collaborative. Inviting others to join us in solving the problem enriches the solution pool. Being handed solutions to problems we have not participated in defining creates resistance, resentment, cynicism, and apathy, while searching for solutions together builds responsibility, improves the quality of solutions and increases the opportunities for synergy and successful implementation.

- *Failing to Learn from the Problem*

It is *extremely* difficult in organizations to overcome culturally ingrained, counterproductive methods of problem solving. Creating a learning-oriented culture means redefining problems as sources of growth, development, partnership, and self-esteem. Learning-oriented cultures are problem-friendly, as opposed to control-oriented cultures that regard problems as failures, or enemies to be annihilated. All turnaround feedback, coaching, mentoring, and assessment programs are based on the fundamental idea that problems are opportunities for skill building, personal growth, and organizational learning.

## FIVE STEPS IN EFFECTIVE PROBLEM SOLVING

### **Step 1. Recognize and Accept the Problem**

Admit and accept that there *is* a problem. Name it with as much precision and complexity as it requires. Identify its causes and separate each one from the person who represents, expresses or embodies it. Surface the underlying sources of the problem and commit whatever time and energy is needed to solving it. Assess the willingness of everyone to participate in defining the problem and discovering solution. Ask what kept those involved from admitting or accepting that they had a problem. Then decide whether and how to go about solving it.

### **Step 2. Define the Problem and Clarify the Obstacles to Solving It**

Gather information about the problem and restate it clearly and concisely based on what has been learned about it. Identify the issues, barriers, or difficulties that stand in the way of solving it, compare the problem with others and notice its similarities and differences. Identify the questions that need to be answered in order to solve it, such as: What are the deeper causes of the problem? Do they include difficult behaviors, especially our own? Are they a result of unfair or unsuccessful attitudes?

### **Step 3. Analyze, Categorize, and Prioritize the Elements of the Problem**

Analyze, categorize, and prioritize the elements that make up the problem. Examine how it has been affected by the context and relationships that surround it. Explore its history and evolution over time. Identify a perfect state in which the problem no longer exists and then work backward from the future to trace its development. Check for factual inconsistencies, unstated assumptions, and expectations. Watch out for myths, stereotypes, and clichés and notice differences in underlying values, beliefs, and premises. Identify emotions that may have distorted the problem and search for their cultural, structural, and systemic causes. Analyze everyone's role and ask how each person might have contributed more to solving it.

### **Step 4. Brainstorm Options to Satisfy Every One's Interests**

Ask questions that reveal underlying interests in continuing or solving the problem. Explore paradoxes, contradictions, riddles or polarities about the problem. Summarize unstated assumptions, expectations, myths, stereotypes, or clichés held by those connected with it. Brainstorm options, search for alternatives that satisfy interests, develop criteria for determining whether it has been completely solved, predict probable consequences of proposed actions, test conclusions in pilot projects, and develop strategies and action plans for implementation.

### **Step 5. Commit to Action, Evaluate, and Celebrate Successes**

Commit to a course of action to solve the problem. Decide how to communicate solutions, how to deal with objections, how to evaluate successes, and who will review, monitor, and report on progress. Elicit feedback on what is working and what isn't, evaluate interim results, make midcourse corrections, summarize what was learned from the problem and how it was solved, identify ways of improving the process, celebrate successes, then pick a new problem and start all over again.

## HURDLES TO CREATIVE PROBLEM SOLVING

In addition to an attitude of control and a lack of appreciation of the paradoxes that lie at the heart of many of our problems, there are a number of other practical hurdles to successful problem solving. Here are some of the most common barriers or obstacles that, in our experience, stand in the way of creative problem solving, based in part on work done by Bolman and Deal in their book Reframing Organizations:

1. *We are not sure what the problem is.* Definitions of the problem are vague or competing, and many problems are intertwined with others.
2. *We are not sure what is really happening.* Information is incomplete, ambiguous, or unreliable, and people disagree on how to interpret the information that is available.
3. *We are not sure what we want.* We have multiple goals that are either unclear or conflicting or both. Different people want different things, leading to political, value-based and emotional conflicts.
4. *We do not have the resources we need.* Shortages of time, attention, or money make a difficult situation even more chaotic.
5. *We are not sure who is suppose to do what.* Roles are unclear, there is disagreement about who is responsible for what, and roles keep shifting as problems come and go.
6. *We are not sure how to get what we want.* Even if we agree on what we want, we are not sure, or disagree, about how to get what we want.
7. *We are not sure how to communicate what we want to others.* Often, we hesitant to communicate exactly what we want for fear of offending others.
8. *We don't know what is possible.* We have not explored all the options or disagree about which to focus on first.
9. *We are not sure how to determine if we have succeeded.* We are not sure what criteria to use to evaluate success. If we do know the criteria, we are not sure how to measure them.
10. *We are not sure what we did that was responsible for our success.* Once we have succeeded, we are unsure whether it was our efforts that were responsible, and if so, which ones.

## PROBLEM-SOLVING STYLES

### CONTROL ORIENTATION

<b>Basic Assumptions</b>	<b>Managing Goal</b>	<b>Some Common Strategies</b>	<b>Some Possible Consequences</b>
<ul style="list-style-type: none"> <li>• Others can't be influenced</li> <li>• Problems can't be solved unless solved "my way"</li> </ul>	<ul style="list-style-type: none"> <li>• How can I assert sufficient control to insure that problems as I define them, are solved in ways that I see fit.</li> </ul>	<ul style="list-style-type: none"> <li>• Unilaterally impose your solutions and act as though you are not doing so</li> <li>• Do not request feedback about your own ideas</li> <li>• Shoot down others and don't share reasons why</li> <li>• Reflect privately on results</li> </ul>	<ul style="list-style-type: none"> <li>• Low team commitment &amp; responsibility</li> <li>• Public "group think"</li> <li>• Private politicking &amp; subterfuge</li> <li>• Polarized group dynamics</li> <li>• High-risk to raise difficult problems</li> </ul>

### LEARNING ORIENTATION

<b>Basic Assumptions</b>	<b>Managing Goal</b>	<b>Some Common Strategies</b>	<b>Some Possible Consequences</b>
<ul style="list-style-type: none"> <li>• Other people can be influenced</li> <li>• I can be influenced</li> <li>• Constraints may be altered</li> </ul>	<ul style="list-style-type: none"> <li>• How can I maximize my opportunity to create alternatives and test whether they work or not</li> </ul>	<ul style="list-style-type: none"> <li>• Identify shared responsibility for problem-definition and solutions</li> <li>• Encourage others to react to your plans and do the same for others.</li> <li>• Experiment off-line with the alternatives</li> <li>• Tinker with the design and fill in the gaps</li> <li>• Discuss results publicly</li> </ul>	<ul style="list-style-type: none"> <li>• Increased team participation</li> <li>• Higher team commitment, responsibility</li> <li>• Increased willingness to raise problems</li> <li>• More resources to tackle them.</li> </ul>

(Adapted from Diana Smith, "Working Paper")



## ELEMENTS OF COLLABORATIVE PROBLEM SOLVING

- Own the problem, as though it were yours
- Define the problem in irreducible terms
- All parties, groups, opposing sides, and stakeholders present and clarify their divergent interests
- Brainstorm options to satisfy those interests without discussing their relative merits
- Prioritize options based on consensus
- Recapture and integrate the best elements of lower priority options
- Pick one option to work on and improve
- The party, group, opposing side, or stakeholder whose option was not picked goes first in recommending improvements to the best option
- Develop criteria and standards, create pilot projects, identify experts to consult, agree on vision, mission or core values, jointly investigate the problem, etc.
- Expand the pie, and consider trade-offs and other ways of satisfying interests.

## SOME PROBLEM SOLVING QUESTIONS

- What do you want?
- Why do you want it?
- What are you doing to get it?
- Is that working?
- Why not?
- What else could you do that might work?
- Is there anything that keeps you from trying?
- What do you need to start?
- When will you start?
- How could I support you?

## PARADOXICAL PROBLEM SOLVING

Often, problems are expressions of underlying paradoxes, riddles, enigmas, contradictions, and polarities that, if understood, can lead to more profound and powerful solutions. Paradoxes and polarities are a part of nature. It is *impossible* to solve the problem, for example, of up versus down, light versus dark, or plus versus minus without at the same time abolishing both. The same can be said of life and death, pleasure and pain, good and evil, right and wrong, success and failure, and of course, problems and solutions. It is impossible to eliminate one without eliminating the other.

In today's workplace, problems are increasingly complex and paradoxical, yet the ways we solve them remain simple and one-sided. Everyone lives with paradoxes every day. By not oversimplifying the natural complexity of the problems we face, but mining them for information about novel ways of improving the quality of solutions, we turn problems into sources of learning. Paradox means living simultaneously with two apparently contradictory realities, which is critical for people working in complex, team-based environments and for learning organizations.

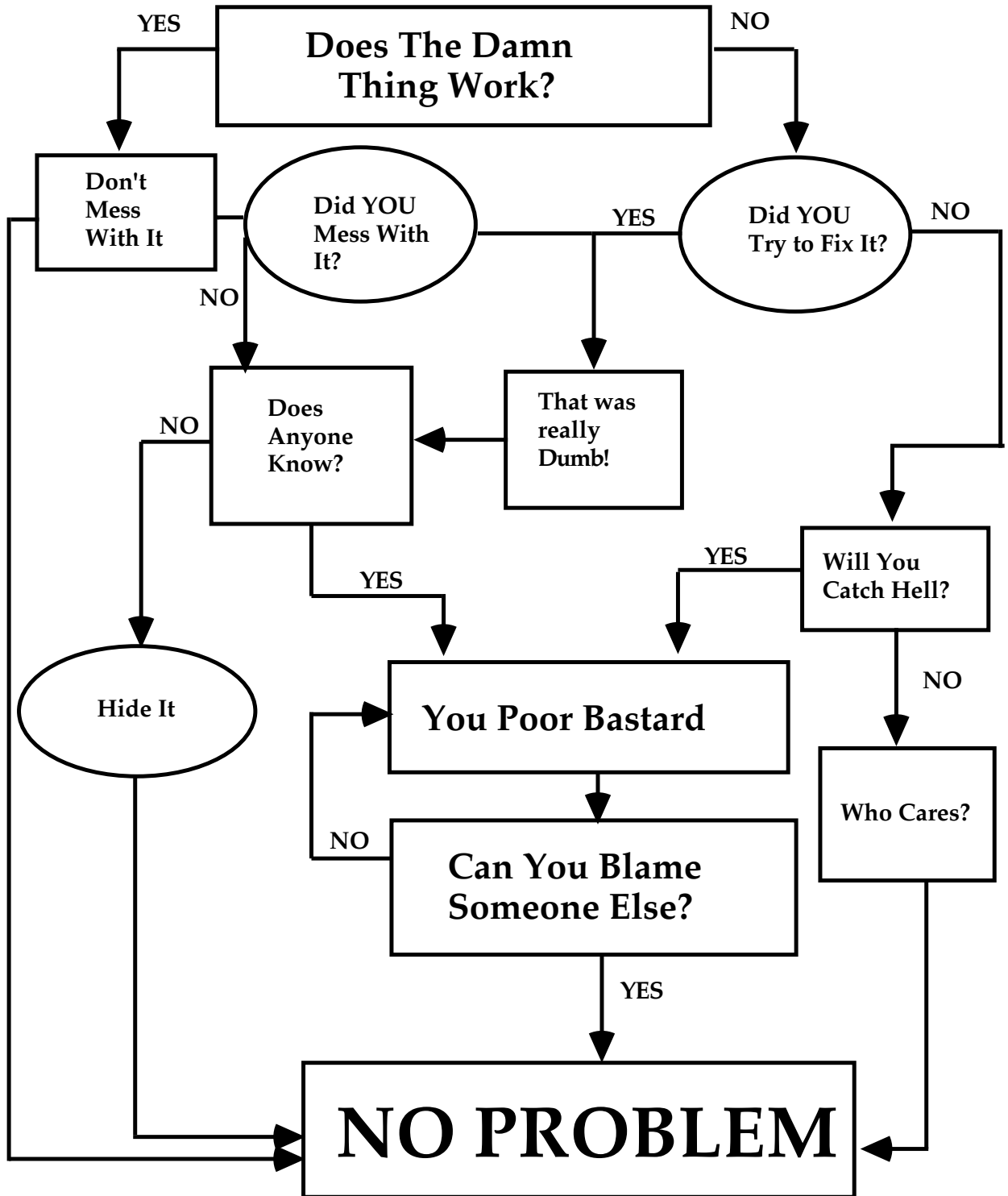
Paradox, ambiguity, and enigma can be savored and plumbed for the rich array of alternatives they reveal without requiring a solution. There may come a time to select a solution and act, but before reaching closure, the complexity and paradox that *actually exists* in the problem should be completely explored. This requires us to hold two opposing thoughts at the same time. Paradox, ambiguity, and enigma do not reflect a lack of clarity about the problem, they express its deepest, hidden, ubiquitous, dualistic truth. Umberto Eco described this idea well in Foucault's Pendulum:

“[In the beginning] I believed that the source of enigma was stupidity. Then ... I decided that the most terrible enigmas are those that mask themselves as madness. But now I have come to believe that the whole world is an enigma, a harmless enigma that is made terrible by our own mad attempt to interpret it as though it had a single underlying truth.”

Finding a single solution for a multifaceted problem; or a fixed solution for a problem that is evolving; or a simple solution for a complex, compound, paradoxical problem often ends in making the problem worse and causing us to disrespect, dislike, and disempower our problems.

By respecting, loving, empowering, and learning to play with our problems, and not trying to simplify their natural complexity, we are able to mine them for information and discover novel solutions.

# Problem Solving Flow Chart



## STEP VI: NEGOTIATE THE DIFFERENCES

### PRIMER OF NEGOTIATING TERMS

<b>Issues:</b>	What you disagree about
<b>Positions:</b>	What you want
<b>Interests:</b>	Why you want it
<b>Criteria:</b>	How you get it
<b>BATNA:</b>	What will happen if you don't get it (best case)
<b>WATNA:</b>	What will happen if you don't get it (worst case)
<b>Satisfaction:</b>	What will happen if you get it
<b>Collaborative Bargaining:</b>	Working together to get what you both want
<b>Positional Bargaining:</b>	Working against the other side to get only what you want.

### WHAT WE NEGOTIATE

#### QUANTITIES

Time  
Money  
Space  
Possessions  
Action  
Power  
Personal Gain  
Winning/Losing  
How much do I get?

#### QUALITIES

Relationships  
Trust  
Intimacy  
Self-Esteem  
Meaning  
Community  
Mutual Gain  
Democracy/Participation  
How good can it get?

### THREE NEGOTIATION STYLES

<b>Soft Bargaining</b>	<b>Aggressive Bargaining</b>	<b>Collaborative Bargaining</b>
Participants are friends.	Participants are adversaries.	Participants are problem solvers.
The goal is agreement.	The goal is victory.	The goal is a wise and just outcome, reached efficiently & amicably.
Make concessions to cultivate the relationship.	Demand concessions as a condition of the relationship.	Separate people from the problem.
Be soft on the people and on the problem.	Be hard on the problem and the people.	Be soft on the people and hard on the problem.
Trust others.	Distrust others.	Build trust, be trustworthy.
Change your position easily.	Dig into your position.	Focus on interests, not positions.
Make offers.	Make threats.	Ask open-ended questions.
Disclose your bottom line.	Mislead as to your bottom line.	Discuss, disclose your bottom line.
Accept one-sided losses to reach agreement.	Demand one-sided gains as the price of agreement.	Work for shared losses and mutual gains.
Search for the single answer: the one they will accept.	Search for the single answer, the one you will accept.	Search for ways to expand the pie and diverse options to choose from.
Insist on agreement.	Insist on your position.	Insist on respectful communication.
Try to avoid a contest of wills.	Try to win a contest of wills.	Try to base results on standards independent of wills.
Yield to pressure.	Apply pressure.	Yield to principle, not pressure.

(Adapted, based on work by William Ury & Roger Fisher)

## COLLABORATIVE NEGOTIATION PROCESS

1. Conduct a needs assessment
2. Agree on ground rules
3. Identify goals for the relationship
4. Assess what didn't work during last negotiation
5. Establish top priorities
6. Tackle easy issues first
7. Meet informally in small bilateral teams
8. Brainstorm possible solutions
9. Reach consensus where possible
10. Identify interests
11. Agree on appropriate criteria
12. Develop alternatives to make proposal acceptable to other side
13. Use separations, and collaboratively negotiate solutions
14. Consult experts, conduct research, experiment
15. Search for creative ways to resolve impasse
16. Use outside facilitation or mediation if necessary
17. Evaluate the process
18. Give each other honest feedback
19. Celebrate successes
20. Build the relationship

## OTHER COLLABORATIVE BARGAINING PROCESSES

- Meet in a neutral place.
- Move away from the table. Sit in a circle or use a round table.
- Alternate seating labor/management, labor/management.
- Remove extra chairs and seat people close to each other.
- Come prepared. Agree in advance on an agenda.
- Make sure there are refreshments.
- Make sure each team is authorized to reach agreement.
- Get “fast track” authority from constituencies on some issues.
- Poll constituencies on issues beforehand.
- Be on time. Welcome each other warmly. Allow time for social conversation before beginning.
- Reach consensus on ground rules and review them periodically.
- Agree to stop if there are violations or the process isn't working.
- Use a “time-out” signal to stop the process if it isn't working.
- Change the process so it works for everyone.
- Ask the whole team to stay throughout the meeting.
- Turn off cell phones and pagers. Avoid interruptions.
- Take periodic breaks. Bring food in for lunch and talk during breaks or eat lunch with someone from the other side.
- Select a facilitator and recorder and rotate these roles.

- Select a process observer to watch and give feedback to the group.
- Use flip charts and prepare handouts in advance.
- Reach consensus on the issues to be discussed.
- Anticipate interests before making proposals.
- Break issues down into smaller issues.
- Form bilateral teams of 2-4 members to recommend agreements or language to the larger team.
- Assign on-going issues to year-round problem-solving teams.
- Create side agreements for short-term operational issues.
- Create fast-forming "SWAT" teams to find interim solutions to unanticipated crises.
- Negotiate changes continuously without waiting for the written agreement to end.
- Take some issues off the table for joint study. Consult experts.
- Create pilot projects and experimental solutions
- Ask one side to present the other side's interests or arguments.
- Seek review of proposals by peers outside the organization.
- Decentralize negotiation and decision-making over some issues and allow local units to create their own rules.
- Accept *both* positions and ask a neutral party to draft language that integrates them.
- Conduct facilitated or mediated sessions with a professional.
- Provide periodic training in communication, negotiation, problem solving, and conflict resolution skills for both sides.
- Bring constituencies together to hear progress reports, reasons why there is disagreement and make recommendations.
- Create a joint communication plan.
- Evaluate the process to identify what worked and what didn't.

## EXAMPLES OF COMPETITIVE TACTICS

1. **Overreacting:** behaviors aimed at making you feel that you are being unreasonable, so you will back down.
2. **Raising False Issues:** using a non-issue or minor concession framed as a major concession, in order to appear fair in seeking a major concession from you.
3. **Tantrums:** behaving badly in the hope that you will give up and give in
4. **Good Guy/Bad Guy:** attempt to make you think the 'good guy' is on your side against the 'bad guy', to get you to accept the good guy's deal.
5. **Escalating Demands:** every time you concede or agree to something, they ask for more. Attempt is to get you to agree quickly and under pressure in order to avoid more demands.
6. **Grinding:** exerting continual pressure to extract the maximum from you. Mirror image of escalating demands. Also known as "nickel & diming".
7. **Swarming:** creating confusion so you will agree before you can think, by overwhelming you with information at high speed, often manipulating facts and numbers in a way that makes the deal look reasonable at first glance, when it actually isn't.
8. **Creating Artificial Deadlines:** used to create pressure on you when in fact, there is no real reason for the deadline.
9. **Bluffing:** also known as lying, this strategy is aimed at having you believe something that would get you to agree to the other negotiator's terms
10. **Delaying:** finding excuses to put off negotiations to test if you are desperate, and/or to make you think they are not very interested, so you will accept anything.
11. **Bottom Lining:** making you think they will not negotiate beyond a certain point.
12. **Insulting:** undermining you personally in an attempt to make you feel intimidated, or to trigger you so you are less confident and more emotional.

In assessing and responding to these strategies, remember that they are designed to put you in a defensive mode. Respond in a way that limits the effectiveness of the strategy, and provides avenues for the competitive negotiator to take a more collaborative approach.



## STAGES OF COLLABORATIVE NEGOTIATION

1. **Preparation:**
  - A. Research Proposals
  - B. Review Strategy
  - C. Develop your BATNA (Best Alternative to a Negotiated Agreement)
  - D. Consider your WATNA (Worst Alternative)
2. **Entry:**
  - A. Listen actively to the other side.
  - B. Be soft on the people and hard on the problem.
  - C. Set objectives, determine goals.
  - D. Make certain there is authority to reach agreement.
3. **Exploration:**
  - A. Separate people from problems.
  - B. Focus on interests rather than positions.
  - C. Create options for mutual gain.
  - D. Look for appropriate criteria or standards.
4. **Give and Take:**
  - A. Present offers rather than positions.
  - B. Use caucuses to respond.
  - C. Sum up areas of agreement and disagreement.
  - D. Look for possible loopholes.
5. **Closing:**
  - A. Make sure agreement is better than BATNA.
  - B. Write down agreements clearly and in detail.
  - C. Confirm the agreement.
  - D. Reaffirm the relationship.

## PREPARATION FOR NEGOTIATION

In preparing for negotiation, both sides need to identify and understand for themselves and the other side, at least the following elements of the negotiation process:

- |                         |                          |
|-------------------------|--------------------------|
| • Goals                 | • Purposes               |
| • Concerns              | • Feelings               |
| • Ground Rules          | • Processes              |
| • Issues and Priorities | • Contexts               |
| • Positions             | • Interests              |
| • Arguments             | • Bottom Lines           |
| • Wishes                | • Options                |
| • Criteria              | • Strategies             |
| • Potential Allies      | • Potential Enemies      |
| • Responsibilities      | • Styles                 |
| • Training              | • Communication Plan     |
| • Feedback              | • Evaluation             |
| • Relationship Building | • Continuous Improvement |

## SETTING THE AGENDA AND CLARIFYING THE ISSUES

During agenda setting, the role of the mediator is to give the parties a sense of which issues can be mediated and which issues should be handled in another setting.

The following are guidelines that the mediator should keep in mind during the agenda-setting process:

1. **Outline the agenda items** on a piece of paper or on a blackboard in front of the parties.
2. **Take a very active role** in helping the parties to define their issues and to determine their priorities.
3. **Express agenda items as mutual concerns** of the parties whenever possible, and express them in neutral, non-accusatory terms.
4. **State all issues** and sub-issues which are important to the parties and which can be mediated.
5. **Consider include “improving communication”** as an agenda item, to be discussed and resolved in concrete terms.
6. **Assign** the agenda items a **priority**, considering the following :
  - a) Which of the parties’ needs are immediate.
  - b) Which issues are most easily resolved. Try to achieve an early sense of agreement and resolution by the parties.
  - c) Which issues are crucial and pivotal. Resolving them first can help resolve other issues later.
  - d) Alternate the discussion of issues important to one party with discussion of issues important to the other.
7. **Keep notes** during the parties’ ensuing discussions and negotiations of any possible “hidden” issues to be added later to the agenda or discussed in caucus.
8. **Give the parties plenty of positive reinforcement** as to their expression of the issues they wish to discuss.

## QUESTIONS FOR STARTING NEGOTIATIONS

1. **Goals:** What does each side want?
2. **Alternatives:** What will each side do if no agreement is reached?
3. **Interests:** What are the parties' real interests?
4. **Options:** What creative ideas can be developed to meet each of the interests of the parties?
5. **Standards:** Are there objective criteria or standards that will help the parties agree on what is fair?
6. **Communication:** What can be done to improve each side's understanding of the other side's concerns?
7. **Relationship:** What can be done to improve trust and make the next negotiation less difficult?
8. **Reality Testing:** Is the agreement realistic? Will it work for both sides?
9. **Contracting:** Do the parties accept the agreement as theirs?
10. **Commitment:** Do both sides agree to try to make it work?

## SEPARATIONS IN CONFLICT RESOLUTION

- Separate people from problems
- Separate personalities from behavior
- Separate awareness from judgment
- Separate listening from problem solving
- Separate process from content
- Separate emotions from negotiation
- Separate positions from interests
- Separate problems from solutions
- Separate the future from the past
- Separate options from choices
- Separate criteria from selection
- Separate agreements from disagreements
- Separate you from others
- Separate acknowledgment from feedback
- Separate feedback from evaluation
- Separate ending from completion and closure

## SETTLEMENT STRATEGIES

1. **What's fair to you?** Most people believe in fair play, even if they define it differently. By asking the parties, collectively or privately, what they think is fair, you may find the seeds for settlement
2. **Can you agree on criteria?** Sometimes a search for mutually agreeable criteria or mutually trusted opinion can lead to a basis for settlement. "So you both are willing to use the bluebook price for an average condition car?"
3. **Reframe the issue** When you hear a position, e.g., "I must keep the car!" probe to see what the underlying interest is, e.g., "I need transportation to and from work." Look for mutual interest whenever possible.
4. **Find out priorities** What issues are most important to whom? Are there issues that can be dropped from the agenda? Are there issues, which can be addressed later? Are there issues that can't be addressed by the parties present?
5. **Structure communication** Role-model good communication for success habits--listening, respect for ideas. Soften the parties' harsh language when transmitting statements, offers and responses, whenever appropriate.
6. **Expand the possibilities** Encourage the parties to think creatively. To think beyond the obvious. Brainstorm possible resolutions, which can meet both parties' needs and interests.
7. **Allow tentative consideration** Allow the parties to ponder options tentatively. Use the hypothetical mode, e.g., "If she was willing to not practice the piano after 11:00 p.m., would that meet your need for quiet time to study?" Back and forth tentative fine-tuning of "what ifs" can help build a settlement.
8. **Stress the consequences** Help the parties face reality. Act as an agent of reality Ask them to consider if an offer is feasible? How is the other party likely to respond? If they do not settle through mediation, what are their other choices? How do these choices compare with the suggested options?
9. **Reveal the process** Keep up the parties' morale. Remind them that hard choices may be a sign of progress. Remind them that mediation allows them to maintain control of the outcome.
10. **Remind of the future** Remind the parties of their interest in resolving issues now. "What would it be like to have these issues behind you?" "The time invested now is worth the effort."

## WHY COLLABORATIVE EFFORTS FAIL

1. Neglecting to involve those who are most immediately impacted by the problem
2. Being too timid and not including strategic or systemic objectives
3. Excluding critics with useful ideas from the process
4. Allowing internal and external conflicts to continue unresolved
5. Not improving skills in communication and conflict resolution
6. Seeing collaboration as an *event*, rather than something that happens daily
7. Not making collaborative improvements in the design of systems, processes, relationships, communications, and technology
8. Not reducing or eliminating bureaucratic work that takes time and energy from collaboration efforts
9. Not working strategically when facing emergencies or uncertainties
10. Using collaborative language and not implementing it
11. Thinking only tactically and incrementally about collaboration
12. A belief by managers that they will not benefit from collaboration
13. Failing to flatten hierarchies and institutionalize teamwork
14. Not assisting outside stakeholders in understanding the need for collaboration
15. Not making collaboration an objective of each member of the entire group
16. Not changing the culture of aggressive competition to one of collaboration
17. Not implementing the collaboration at all levels
18. Inability to visualize what collaboration is intended to achieve, or using it to pursue unclear priorities or vague objectives
19. Lack of adequate financial resources
20. Lack of clarity about how to put it into practice
21. Incorrectly seeing collaboration as simple or a cure-all
22. Using it to attack systemic problems partially, piecemeal or episodically
23. Using a "one size fits all" or "flavor of the month" approach
24. Not addressing the underlying systems that created the problems and focusing instead on superficial or isolated problems
25. Failing to transform existing cultures, processes, and relationships, and significantly alter day-to-day behaviors

### **TEN REASONS TO CAUCUS**

It may be helpful to meet individually with each side in order to explore possibilities for settlement that would be blocked if the parties remain together, and to:

1. Explore hidden agendas.
2. Reduce emotional tension.
3. Build trust.
4. Resolve personal emotional issues.
5. Analyze risks and reasons for settlement.
6. Test for realistic perceptions.
7. Explore available options.
8. Defuse resistance.
9. Communicate confidential or embarrassing information.
10. Break impasse.

### **10 REASONS NOT TO CAUCUS**

1. Encourage the parties to talk directly to each other
2. Reduce emotional tension through empathy
3. Build trust through authenticity and engagement
4. Identify and fix chronic communication issues
5. Improve processes and relationships
6. Reduce false expectations
7. Brainstorm creative options
8. Increase collaboration, civility and joint decision-making
9. Improve skills in communicating honestly
10. Jointly design ways of reducing or preventing conflict in the future

## TECHNIQUES FOR BREAKING IMPASSE

Every case that comes to mediation has reached impasse. The following are a few of the possible techniques that can be used to find a breakthrough:

- Break the issue down into smaller parts, isolating the most difficult issues and reserving these for later.
- Ask the parties why an alternative is unacceptable, then look for narrow solutions tailored to the reasons given.
- Go on to other issues, or take a break and ask the parties to think about the various alternatives presented.
- Review the parties' priorities and common interests.
- Caucus with each party to explore hidden agendas and willingness to compromise.
- Split the difference.
- Try to obtain agreement on what they originally expected the solution would be.
- Look for possible trade-offs or exchange of services.
- Encourage the parties to recognize and acknowledge each other's points of view.
- Tell the parties you are stuck and ask for their ideas.
- Ask the parties to indicate what would change or happen if they reached a solution.
- Make certain the parties prefer mediation, as opposed to litigation.
- Test for emotional investment in a given result by asking what it would take to get the parties to surrender it.
- Compliment the parties on reaching earlier points of agreement and encourage them to reach a complete agreement and put this dispute behind them.
- Remind the parties what will happen if they do not settle--what each stands to lose.
- Create a minute of silence for the parties to think about it.
- Ask more questions -- about the problem, feelings, priorities, alternative solutions, flexibility, hidden agendas, compromises, anger, etc., or return to agenda setting.
- Generate options by asking the parties to brainstorm without considering the practicality of a suggestion.
- Tell the parties which alternative you believe is fair and why. This should only be done if all other options fail.

## HOMEWORK ASSIGNMENTS FOR PARTIES IN CONFLICT

1. List all the points on which you would like to reach agreement.
2. List your goals or objectives in relation to the dispute.
3. List three things you would be willing to do to settle the dispute.
4. Draw a picture (or write a description) of yourself and the other party in conflict. Next draw (or write a description) of the two of you after the conflict is over.
5. List the words you would use to describe the relationship you would like to have with each other.
6. List the words that describe what is wrong with the other person. Afterwards, opposite those words, list the reasons you have problems with that behavior and who in your family comes closest to having those characteristics.
7. Repeat #6 using words that describe what is good about the other person.
8. List your objections to the other person's behavior in the form:  
"When s/he \_\_\_\_\_, I feel \_\_\_\_\_.."
9. Write down the words that describe your own negative qualities when you are in conflict. Next, write those that describe your positive qualities while in conflict.
10. Write down what you think would happen both positive and negative if you reach an agreement. Next write what would happen if you do not reach an agreement.
11. List all the options available to resolve the dispute, without regard to whether they will work.
12. Write down what you think could have been done that would have prevented the dispute from happening.
13. List what you think the other party to the conflict wants. List what you think his or her reasons are for wanting it.
14. Prepare an offer of settlement. Respond to the opposing party's offer by listing your objections in order of their importance.



## TECHNIQUES FOR MEDIATING ORGANIZATIONAL ISSUES

The following mediation techniques may be useful in resolving complex organizational issues. The design of a conflict resolution process will depend on the nature and specific needs of the organization.

1. Use two or three mediators. Consider including small group (or “team”) facilitators -- one for each group of 4-5 participants.
2. Begin by asking each participant to introduce themselves, state their position in the organization, and what they would like to accomplish in the session.
3. Establish clear ground rules. Obtain consensus on confidentiality. Agree to talk about what will be said to others who are not present about the mediation session and any agreements that may be reached.
4. Use a round robin process to allow each person to describe how he or she see the conflict.
5. If the true conflict does not surface, use secret ballot. Ask everyone to write down the three most important problems in the organization, causes of the conflict, or three metaphors for “the other side”.
6. Write these down on butcher paper and tape on the walls for all to see.
7. Discuss the problems, causes or metaphors, placing them in categories by analysis in large group discussion.
8. Break up into small groups by interest, divergent views, responsibility or random selection with a mediator or facilitator for each group. Let each group distill the problems, causes or metaphors to a concise statement by analysis.
9. Have each small group select one of its members to record ideas and another to present its work to the group as a whole. Applaud each presentation.
10. Discuss the small group reports in the large group and look for ways of creating consensus.
11. Have each small group brainstorm to develop a list of possible solutions. Instruct participants on brainstorming techniques.
12. Prioritize the list of possible solutions.

13. Assign each small group follow-up “homework”, to gather additional facts, narrow the list of options, consult with others who are not present, develop proposals for key options, etc.
14. Use force-field analysis and other techniques to identify what hindering and helping forces need to be identified.
15. Identify critical success factors from prioritized list of solutions.
16. Create an action plan, with specific responsibility for tasks and deadlines.
17. Reflect on the transformation from anger, resentment, cynicism and resistance to energy, enthusiasm, teamwork and commitment.
18. Evaluate the process and get feedback on the satisfaction of participants with the outcome and process.
19. Encourage participant to give constructive feedback to others.
20. Reduce agreements to writing, identify next steps to be taken, and who will be responsible for taking them.
21. Congratulate participants on their work, and celebrate their successes.
22. Schedule a follow-up meeting to track progress and maintain momentum.

## CREATIVE TECHNIQUES FOR RESOLVING GROUP CONFLICTS

### **1. Round Robin:**

Each person in turn defines the problem, going around the room until everyone passes. The same process is used to brainstorm solutions and arrive at consensus.

### **2. Group Interview:**

Each person in the group interviews another person about their personal life and their view of the conflict, then presents the results of the interview to the group as a whole. The person interviewed is then “debriefed” and asked for feedback.

### **3. Single Document/Multiple Draft:**

The mediator accumulates points of consensus, either from scratch or starting with a proposal from one side that is modified by the other back and forth until there is agreement.

### **4. Lineups:**

Make one spot in the room stand for one solution to the conflict and another spot stand for the opposite solution. Ask people to arrange themselves in relation to the strength of their feelings about the issue, then discuss it with those nearest.

### **5. Stations:**

Do the same exercise, but create four alternatives, one for each corner in the room and allow people to group themselves in front of the option they like best. Then ask everyone how they feel being divided, and ask them to talk to their neighbors and get them to recombine into fewer options to narrow the number of people supporting each choice.

### **6. Samoan Circle:**

Place chairs in a circle or square with a table and 4 chairs in the center. Ask four volunteers to represent four perspectives on the conflict. Only those seated at the table may talk, and if others wish to speak they stand next to someone at the table and wait for a turn. A neutral person acts as facilitator to begin the process, or as moderator if needed. After discussion, the parties talk about how to negotiate an agreement. The moderator may switch roles or positions or freeze-frame and ask for comments on the process. Afterward everyone discusses the experience.

### **7. Blake and Mouton Method:** (from Solving Costly Organizational Conflicts)

After orientation, conflicting groups separately identify optimal goals for their relationship, then jointly consolidate and agree on goals; then separately identify problems in their relationship and jointly consolidate and agree on problems. They then meet together to develop concrete plans for changing their relationship to achieve their goals. They then critique their group process, acknowledge individual contributions, review their progress and plan further improvements.

### **8. Strategic Planning:**

The group jointly creates a vision of how they would like their organization or their relationship to be, then identifies barriers to realizing that vision, develops strategies for overcoming the barriers, and action plans to put the strategies into effect.

**9. Side-Bar Consensus:**

Ask two to four individuals with differing views of the problem to meet separately and develop a consensus recommendation for the group as a whole.

**10. Group Sculpture:**

Ask each sub-group to use its members to create a sculpture that depicts what the relationship with the other group feels to them, asking people to freeze in position or use only robotic movements. Interview the sculpture to understand what each element feels like in position. Then look for ways of making the relationship less stressful through reworking the sculpture.

**11. Passion Posters:**

Individuals write on flip chart paper one thing they feel passionately about. Everyone reads these and small groups are formed to talk in round robin fashion about why they feel passionately about that subject and what they might do to more effectively act on their passion. Each group reports on their results.

**12. Reductio ad Absurdum:**

In dyads, individual members of conflicting groups list as many things that are wrong with the other group or reasons for not resolving their conflict as they possibly can, being urged repeatedly to keep on going. Afterwards they list as many reasons for resolving their differences as they can, and then compare their lists.

**ROLES FOR BOARDS OF DIRECTORS**

- Creating, championing and returning to a vision
- Establishing and deepening commitment to core values
- Identifying and conforming practices to mission and goals
- Developing and implementing strategies
- Shaping overall direction
- Avoiding micro-managing of staff
- Maintaining oversight
- Providing expertise
- Raising funds and building public support
- Evaluating overall results
- Supporting and encouraging staff
- Resolving disputes
- Designing systems to improve relationships and communication
- Influencing organizational style
- Improving organizational culture
- Publicizing successes
- Mobilizing external support

## THE CULTURE OF MEDIATION: SETTLEMENT VS. RESOLUTION

Albert Camus wrote: "Through a curious transposition peculiar to our times it is innocence that is called upon to justify itself." It is worth noting that it is not violence or even law that calls itself to account, but mediation.

We mediate not in the abstract, but within a given society and culture that define the parameters of what is possible and acceptable. These parameters are paradigms that limit our capacity to creatively respond to conflict. For this reason, Amilcar Cabral said that "liberation is necessarily an act of culture."

There is a culture of conflict that influences how we respond to it. Edward T. Hall in The Dance of Life refers to "high context" and "low context" cultures. A high context culture is one like mediation, where most of the meaning lies in the context. Law, on the other hand, is a low context culture, as most of the meaning is apparent in the words. Law seeks to abolish context, while in mediation, context is everything. To understand mediation, therefore, it is necessary to look beyond the words that are used to the context in which they take place.

There are two reasons for mediating disputes: first, because one is frightened of conflict and wishes to avoid or suppress it; second, because one sees an opportunity for transformation through dialogue and problem solving and wishes to promote it.

The former seeks to mollify the opposition without discovering or rectifying the underlying causes of the dispute and seeks settlement for settlement's sake. The latter seeks to bring about a deeper level of understanding and empowerment through honest communication about the causes of the dispute and allows the parties to decide how and whether to end it. The first creates a settlement; the second creates a resolution. The first leads to sullen acceptance, the second to forgiveness and reconciliation.

Conflict is seen by those wishing only to end it as a negative response to an otherwise reasonable and fair social order, as stressful, uncontrollable, violent, fearful, threatening and irrational; as an expression of irresponsibility and a purely procedural failure of communication.

Conflict is seen by those seeking to resolve the underlying reasons which give rise to it as essential to all change, growth, learning, awareness, intimacy, work, relationships, etc.; as the voice of the new paradigm and an indicator of readiness for change; as a guide to what is not working; as a cry for help; and as a historically proven antidote to stagnation, apathy, dictatorship, racism, sexism, slavery, colonialism, tyranny, exploitation, etc.. Change is brought about through the interaction between conflict and resolution, divergence and convergence, antagonism and unity. The difficulty is not with conflict, but how we respond to it.

Conflict can be seen as an expression of the highest level of social and political responsibility; as a necessary byproduct of injustice; as a highly effective method for bringing about social change; as the only way of expressing opposition. Tolerance in the face of injustice, as Herbert Marcuse recognized, is itself repressive. A fear of conflict or opposition, of standing up for what one believes, can lead to settlement, but not to resolution.

For example, antislavery opinion necessarily generates conflict in slave society, and through opposition, expands opportunities for emancipation. To repress or settle such

conflicts in order to avoid opposition is to do so within slave society, i.e., unequally, and therefore to support the status quo. Yet to draw slave owners into an open and public dialogue with their slaves over whether slavery should be continued is to use their conflict to help bring about a resolution of the reasons which created it, which is outside the assumptions of slave society and therefore in opposition to the status quo.

When mediating between the master and the slave, it is important that the slave speak first, not for reasons of sympathy or ideological correctness, but because for the slave the master is a human being, whereas for the master, the slave is merely an object. The master is here enslaved and the slave is master. In order to resolve the issue of slavery, the master must learn humility and slave learn freedom. Each party in a conflict can be seen as a teacher uniquely able to communicate what the other party needs to learn. This is Gandhi's *satyagraha*, "speaking truth to power".

Many who are interested in alternative dispute resolution respond to systemic conflicts with fear or a desire to "make it go away", to silence both the message and the messenger in the interest of agreement, and therefore also of the status quo. In the process, we run the risk of settling disputes that need to be aired, of halting rather than promoting dialogue. If it is true that "the squeaky wheel receives the oil", why not squeak if you are in need of oil? If you cannot be heard without shouting, why whisper?

Laura Nader has written in critique of alternative dispute resolution (ADR) practitioners that they "induce passivity" and "trade justice for harmony", that the purpose of ADR is pacification rather than peace. Certainly there are forms of dispute resolution and individual dispute resolvers who, in fear of conflict or in pursuit of profits or privilege, will promote peace at any price.

Yet there are others who would not discourage the slave from communicating anger or resolve, but seek instead to empower those who are less powerful through empathy, role reversal, active listening, summarizing, acknowledging, power balancing, problem solving, generating options, eliciting interests, focusing on the future, requiring consensus, creating process awareness, negotiating solutions, and permitting each side to choose a better alternative to negotiated settlement.

This dilemma is not restricted to conflicts between masters and slaves, but is found in small-scale issues where values and ethics typically reside. The master and the slave appear wherever power is distributed hierarchically, as in the family and the workplace. Conflict in these arenas often reflects the momentary failure of a paradigm in the battle of new against old, or frustration at the inability to break a system that is oppressive yet comfortable because it is known and familiar. These are some of the conflicts that families generate, especially in divorce when systems unravel.

All our attitudes toward conflict from fear to rage are learned in the family. The family is the crucible of culture and conflict. It is supportive of settlement, but rarely of resolution.

Many battles, i.e., those between slaves, have less to do with justice than the other infinite sources of human strife. For these, mediation is far superior to power or rights-based resolution systems, and a choice for settlement is less likely to be one that risks justice.

The problem for mediators is: how do we know when we are promoting social peace over social justice? The culture of conflict, in which mediation participates, is one of

demonization and victimization, of “first strikes” and “taking one’s marbles home”, of bravado and self-justification.

The solutions, I think, for mediators, consist of their continuous effort to:

1. Recognize and affirm the conflicts people experience as positive, as learning experiences, opportunities for growth or change, as indicators of the need to break a system or shift a paradigm;
2. Use empathy to place oneself as deeply as possible in both parties’ places, while at the same time recognizing clear boundaries between ownership of the dispute and understanding it;
3. Shift parties away from power and positions, which favor those who are already powerful, toward interests, which favor equality;
4. Focus efforts not simply on settlement, but on a full resolution of all the underlying issues;
5. Risk the perception of neutrality by being deeply honest and giving truthful feedback to both sides;
6. Search out power imbalances and ways of correcting them;
7. Through storytelling and reframing, separate the mask from the person, the demon or the victim from the human being behind the image of the Other created by the speakers’ own fear;
8. Speak from an impeccable intention and clarity, without judgment, and therefore from the heart and spirit rather than from the head;
9. Do not impose your idea of justice on others, but elicit from the parties why an alternative feels fair;
10. Genuinely do not care if the parties knowledgeably chose litigation based on an accurate understanding of what it entails.

These approaches, however, do not fully solve the problem. Mediation may be unbiased but it is not value-neutral. The culture and context within which mediation occurs produce values in the form of behavior.

The values, which flow from the settlement process, are those of impatience and conformity, of giving up what is important so the conflict will go away, of surrendering to expediency. A different set of values flow from the resolution process.

1. Acceptance of conflict as positive, as a journey or adventure, an opportunity for growth or change, or an invitation to communication, intimacy and relationship;.
2. Celebration of diversity, a validation of difference and equality;
3. Rejection of behaviors based on superiority and inferiority, victory and defeat, hegemony and powerlessness, correctness and heresy;
4. Affirmation both of opposition and the underlying human unity that transcends it;
5. Recognition and acknowledgment of the legitimate interests of each, including an interest in not compromising or settling the dispute;

6. Rejection of the assumption that zero-sum games are the only ones possible;
7. Affirmation that cooperation is primary and competition secondary;
8. Observation that process encodes and recreates content;
9. Integration of intellect, emotion, body and spirit;
10. Refusal to leave anyone behind.

We require a culture in which conflict is integrated and accepted, where it is celebrated and honored, where settlement is the least virtue and resolution merely a beginning.

### QUESTIONS ON CULTURE AND CONFLICT

Parties may come to the mediation session from differing cultures. It will be important for the mediator to ask questions to determine if what is being done is consistent with the parties' expectations. Some possible questions are:

1. What is the meaning in your culture of:
  - crime?
  - silence?
  - public criticism?
  - physical contact?
  - yelling?
  - confidentiality?
  - use of first names?
  - mediation? etc.
2. How is conflict handled in your culture between:
  - younger and older?
  - women and men?
  - siblings?
  - employer and employee?
  - neighbors? etc.
3. How are mediations or negotiations conducted in your culture in terms of:
  - the role of third parties?
  - aggressiveness or collaboration?
  - communication of a "bottom line"?
  - consideration of unrepresented third parties?
  - compromise?
4. How are conflicts resolved in your culture in relation to issues like this?
5. What can we do to make this process work better for you?
6. What does the term \_\_\_\_\_ mean to you?



## UNDERSTANDING CROSS-CULTURAL CONFLICT

1. Everyone creates culture, every person, every family, every age group, and every organization.
2. Culture is what any group of people understands without having to define or specify. It is what everyone knows that everyone else knows. It is a way of understanding and living in the world.
3. Culture includes the ways people meet their needs, what they imagine, how they relate to one another, what they do and do not react to, and how they react to each other.
4. Cultures are defined by their differences from other cultures. The greater the difference, the more defined the culture.
5. Culture pre-determines what and how we see, hear, think and feel. Whatever conflicts with cultural assumptions may not be received or understood.
6. Most cultures assume that they are superior to other cultures, and that their ways are "right" or "better".
7. Conversely, differing cultures are usually seen as "wrong" or "inferior", and are ridiculed or insulted.
8. Most cultures value conformity, reward compliance and punish dissent.
9. All cultures "socialize" their members, teaching them the "rules" and pressuring them to conform.
10. Among the teaching devices used by cultures to socialize their members are myths about heroes or villains, parables about behavior and its consequences, metaphors for processing information, masks for defining the self, and ready-made "scripts" for all occasions.
11. Tolerance and acceptance of diversity within a culture decreases as conflict with other cultures increases, and increases as conflicts with others decrease.
12. No culture is innately "better", or superior to any other. Every culture is capable of learning from others.
13. In every culture, people want to be accepted, listened to, acknowledged and respected.
14. Cultural difference helps define us, and is a positive value, a reason not for fear, but celebration.
15. All cultures have developed techniques for responding to conflict and mediating cultural differences.
16. There are cross-cultural conflicts even between members of the same culture.
17. There are no absolute "right" responses - only relatively "right" or "wrong" ones within a given culture.
18. Not every conflict involving people who are different is based on cultural difference.
19. We cannot know all things about all cultures.

20. There is no set of universal problem-solving, mediation or conflict resolution methodology applicable to all cultures.
21. In every culture, people communicate because they want to be understood, and respond favorably to respectful communication.
22. We can increase the effectiveness of intercultural communication and problem solving by increasing our communication and conflict resolution skills.
23. Cultural conflicts do not disappear when we ignore them.
24. There is ambiguity in diversity. Tolerance for diversity and an open mind are important techniques for improving our relations with other cultures.
25. Intercultural relationships only develop through tolerance, commitment and genuine effort over time.

### **HOW TO STEREOTYPE**

Prejudice usually begins with stereotyping. People form stereotypes, in my experience, using eight easy steps:

- Pick a characteristic
- Blow it out of proportion
- Collapse the person into the characteristic
- Ignore individual differences and variations
- Disregard subtleties and complexities
- Overlook commonalities
- Match it to your own worst fears
- Make it cruel

## TECHNIQUES FOR MEDIATING CROSS-CULTURAL CONFLICTS

The following are a few of the possible techniques that can be used by mediators to bridge the distance that occurs in cross-cultural conflicts.

1. Ask people what they expect of the process, who they think *you* are, and what they would like your role to be.
2. Ask them to list *positive* words that describe the other culture, and alongside, positive words that describe their own, then exchange their lists and compare them, pointing out similarities and differences in perceptions.
3. Consider conducting the same exercise, except more dangerously, by eliciting *negative* words or stereotypes regarding their own culture, then searching for neutral or positive words to reframe them.
4. Elicit a hierarchy of conflicts by identifying which are most serious and which are least, compare similarities and differences, and do the same with conflict styles.
5. Ask them to numerically rank the options for resolution available in their culture from war to surrender, elaborate those that lie in the middle, and explore reasons for choosing collaborative approaches.
6. Ask them to state, pantomime, role play, draw, or script how conflicts are commonly handled in their cultures.
7. Design a consensus-based model for joint conflict prevention, resolution, transformation, and transcendence.
8. Co-mediate in culturally diverse teams, or invite each side to suggest someone from their culture who could act as a process observer.
9. Establish common backgrounds, points of reference, and values for the process, for example, regarding the importance of cooperation, family, friendship, and education, then connect these to conflict resolution.
10. Ask questions like: "What does that mean to you?" "What does the term 'good neighbor' mean in your culture?" Then list agreed-upon meanings for later reference.
11. Surface, acknowledge, and model respect for cultural differences by asking if they are proud of their culture. If so, why, and if not, why not.
12. Or, more dangerously, ask if there is anything they dislike about their culture and why they feel that way.
13. Ask them to describe the three most important lessons they learned from their culture, who taught them, and why they were important.
14. Ask them to bring photographs of their families, the homes they grew up in, or themselves as children, share these with each other, and describe the crucible events that helped make them who they are today.
15. Ask them to describe the most common stereotypes of their culture, say whether they think it applies to the other person and why. Or, if not, why not.
16. Ask each person to list the main characteristics of heroes, victims, villains, and mediators in their culture, then compare and contrast them.
17. Ask them to write about their conflict in the form of a story or fable, using neutral names and a third-person voice, for example, starting with "Once upon

a time..." and ending with "and they all lived happily ever after," then read them out loud to each other.

18. As a third party to their dispute, describe your own culture, list the stereotypes others have of it, or the stereotypes you were taught about other cultures and how you discovered they were inaccurate.
19. Create a larger sense of culture by asking them what would be missed if it disappeared.
20. Ask each person to bring a song, dance, poem, ritual, work of art, food, etc. from their culture to share at the next meeting, break bread together, and then mediate and celebrate your work together.

## ORGANIZATIONAL CULTURE AND CHANGE

Organizations that are undergoing significant change often experience difficulties making it stick, usually because the people within the organization are resistant to the change, and see it as an imposition from the outside. To measure the level of resistance to change within an organization, they suggest working to identify and transform the following parameters of organizational culture, which we have modified and tweaked to match our own experiences:

### **1. *Power and Vision:***

Do people believe they have the power to make things happen, to create change? Is there a clear, compelling vision for the future?

### **2. *Identity and Relationships:***

With whom do people identify within the organization? Do they identify with their teams? Their functional work units? Their professions? Or the organization as a whole? Does the organization value relationships?

### **3. *Communication, Negotiation and Conflict:***

What behaviors do people engage in when they have a conflict? How do others respond? Is it swept under the rug, or discussed openly? How do conflicts finally get resolved? How do people communicate? How do they negotiate with each other?

### **4. *Learning and Assessment:***

How does the organization learn? How do people respond to new information that doesn't fit? How honest and real are they in assessing problems?

(Based on work by Richard Pascale, Mark Millemann and Linda Gioja)

## EXERCISES IN PREJUDICE REDUCTION AND BIAS AWARENESS

- *Introductions:* Ask people to turn to the person next to them and introduce themselves by describing their personal history and cultural background.
- *Reclaiming Pride:* Ask participants to state their names, the groups with which they identify, and why they are proud to belong to them, as in “I am a \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and \_\_\_\_\_,” listing different sources of identity.
- *What’s in a Name?* In mixed dyads, ask people to describe the origin and meaning of their names and how they came by them.
- *Storytelling:* Each person finds someone from a different group or culture and tells a story about what it felt like to grow up as a member of their group or culture.
- *Assessing Group Identity:* Participants discuss what they get by identifying with a group, and what they give in return.
- *Personalizing Discrimination:* In mixed dyads or small groups, participants describe a time when they felt disrespected or discriminated against for any reason, and compare their experiences.
- *Reframing Stereotypes:* In mixed or self-same dyads, people describe the stereotypes and prejudices others have about their group while their partners write down key descriptive words and phrases, which they later compare and reframe as positives.
- *Observing Discrimination:* In mixed dyads, participants describe a time when they witnessed discrimination against someone else. What did they do? How successful was it? What might they have done instead? What kept them from doing more? How could they overcome these obstacles?
- *Owning Prejudice:* Participants in teams write down all the prejudicial statements they can think of, analyze them, identify their common elements, and read these elements out to the group.
- *Overcoming Prejudice:* In dyads, participants describe a personal prejudice or stereotype they had or have, what they did or are doing to overcome it, then ask for and receive coaching, preferably from someone in that group, on what else they might do.
- *Which Minority are You?:* Participants list all the ways they are a minority, report on the total number of ways, and discuss them.
- *Explaining Prejudice:* Participants in self-same groups identify the prejudices and stereotypes other groups have of them, then explain the truth about their culture and answer questions others have about their group but were afraid to ask.
- *A Celebration of Differences:* Participants are asked to stand and be applauded for their differences, in age, family backgrounds, skills, languages, cultures, and personal life experiences.

[Based partly on work by the National Coalition Building Institute]

## QUESTIONS FOR DIALOGUES ON PREJUDICE

### **A. Questions about the Process:**

1. What are your expectations regarding the conversation we are about to have about prejudice? What do you think is likely to happen? Why? Is that what you would like to happen? What kind of conversation about prejudice would you most like to have? Why? What do we need to do in order to have it?
2. What do the words "prejudice" and "discrimination" mean to you? What reactions do they trigger for you? What are your immediate, visceral, emotional and intellectual responses to them?
3. What do the words "race," "ethnicity," "gender," "sexual orientation," "religion," "social class" "disability" and "political beliefs" mean to you? What reactions do they trigger for you? What immediately comes up for you when you hear them? What do you feel like doing when you hear them?
4. What negative words, experiences, emotions and ideas do you associate with these words? What positive words, experiences, emotions and ideas do you associate with them?
5. How do stereotyping, prejudice and discrimination actually work? Could our ideas and feelings about prejudice, and our expectations about discussing them, *themselves* create a kind of prejudice? How? What could we do in our conversation to make sure that doesn't happen?
6. Do you believe there is value in talking together about these words, experiences and idea? Why? What can we do to make our conversation useful?

### **B. Questions about Background:**

7. When you were growing up, what was the nature of your family of origin, in terms of race/ethnicity/gender/sexual orientation/religion/social class/disability/political beliefs? How has your family changed?
8. What were the attitudes in your family toward people who were different in terms of race/ethnicity/gender/sexual orientation/religion/social class/disability/political beliefs?
9. How were race/ethnicity/gender/sexual orientation/religion/social class/disability/political beliefs spoken about in your family? How much room was there for diversity?
10. What did your family members say and do when confronted with stereotyping, prejudice or discrimination?
11. When did you first become aware of race/ethnicity/gender/sexual orientation/religion/social class/disability/political beliefs? How? What lessons did you learn from that experience?
12. What kind of neighborhood did you grow up in, in terms of race/ethnicity/gender/sexual orientation/religion/social class/disability/political beliefs? What kind of mix or diversity was there in your neighborhood or community? What experiences did you personally have with prejudice or discrimination?
13. What kind of school did you attend, in terms of race/ethnicity/gender/sexual orientation/ religion/social class/ disability/political beliefs?
14. How many of your classmates, teachers or school administrators were from races/ethnicities/genders/sexual orientations/religions/social classes/disability/political beliefs different from yours?

15. What lessons did you learn in school about prejudice and discrimination, from classmates, teachers, administrators, and others?
16. How were people who were different, in terms of race/ethnicity/gender/sexual orientation/ religion/social class/ disability/political beliefs, treated by police, courts, government, corporations, in your community?

**C. Questions about Identity and Stereotyping:**

17. How do you identify yourself, in terms of race/ethnicity/gender/sexual orientation/religion/social class/disability/political beliefs?
18. What, for you, creates that identity?
19. What do you think is the role of media in creating or distorting identity, and in stereotyping, discrimination and prejudice?
20. What are you most proud of about your race/ethnicity/gender/sexual orientation/ religion/social class/disability/political beliefs?
21. Is there anything you or member of your family do to declare, celebrate or acknowledge your identity? If so, what?
22. Is there anything you are ashamed of or embarrassed about regarding your race/ethnicity/gender/sexual orientation/religion/social class/disability/political beliefs? Why? Where do you think that came from?
23. Have you ever felt like an outsider, a minority, stereotyped, discriminated against, or not seen for who you really are, for *any* reason? When? What happened? How did it feel?
24. Have you ever been an insider, part of a majority, dominating or discriminating against others, whether in school or a neighborhood or family or workplace? When? How did that feel?
25. What are the stereotypes you think others have of your race/ethnicity/gender/sexual orientation/ religion/social class/disability/political beliefs? What is inaccurate about those stereotypes? What would you most like them to know about you, and what it is like to be a part of your group?
26. What questions do you have to those in other groups, that you have always wanted to ask, but been afraid or embarrassed to ask?

**D. Questions about Experiencing Prejudice:**

27. What is the worst thing other people have said or done toward the race/ethnicity/gender/sexual orientation/religion/social class/disability/political beliefs you identify with? What would you like to say to them about how it feels? What is one stereotype, prejudicial statement or discriminatory action you never ever want to hear or experience again?
28. Have you experienced prejudice or discrimination at work? Socially? What happened? How did it feel? How was it responded to or handled by others? By you? How could it have been handled better?
29. Have you observed or experienced prejudice or discrimination elsewhere in society, in corporations, governments, religions, law enforcement, media, or other places? What is an example? How was it expressed?
30. Have you observed or experienced prejudice and discrimination as systemic, or reinforced and maintained by silence? Can you think of examples from current events reported in the media? How does politics influence prejudice and discrimination?

31. Have you ever had a prejudice or engage in discrimination against others? What led you to do that? How did it feel? Did you overcome it, and if so, how?
32. Do you feel you have any prejudices now? What are they? Are you doing anything to overcome them? Would you be willing to hear from others in the group about how you might do that?
33. If you met the person you have prejudices about and had some time to talk, what would you be curious about? What questions would you want to ask them? What would you want him or her to know about you? What changes in their behavior would you want to request? What changes do you think they might want to request of you?

**E. Questions about Responding to Prejudice:**

34. What do you think keeps people from speaking up about discrimination? In being effective when they do speak up? What might be done to encourage them?
35. What do people generally do when they experience prejudicial or discriminatory statements or acts by others? What do you do? Is what you or they do effective in stopping the prejudice or discrimination? Why/why not? How do people respond when they are confronted? Is their response useful in
36. Have you done anything yourself to reduce prejudice or discrimination? Have you ever stood up for someone who was being treated prejudicially or spoken about stereotypically? What led you to do that? Have you ever confronted other people for their prejudicial or discriminatory acts or statements? How did it feel? How did the other person feel? What happened? What did you learn from that experience? In hindsight, what do you think you might have done better?
37. What is most difficult for you in responding to prejudicial acts and statements? What do you feel is most difficult for others? What do you think each of us might do better?
38. Imagine that I just made a stereotypical or prejudicial statement, or one that feels hurtful to you or others. How would you respond? Other ideas? What would you want to communicate to me? What do you think would be most effective in changing my attitude and behavior?
39. Is it possible to be prejudiced against people who are prejudiced? How? How might we respond to them in ways that don't make them avoidant, defensive, or angry; and don't make us judgmental, self-righteous, or uncaring?
40. What can each of us do to reduce prejudice and discrimination in our families, neighborhoods, schools, workplaces, organizations, media and institutions? What are some things we can do together? What support do you and all of us need in order to take those steps?



## MEDIATING SEXUAL HARASSMENT CASES

In deciding how to structure a sexual harassment mediation and allow it to unfold, there are several goals that should be kept in mind:

- First, to settle the dispute and agree on appropriate compensation or restitution for the accuser;
- Second, to provide a healing experience for the accuser by articulating the damage it caused, and confronting the accused in a safe, respectful environment;
- Third, to help the accuser move as far as possible in the direction of forgiveness, not only of the accused, but of the her or himself as well;
- Fourth, to provide completion for the accused by enabling him or her to apologize for the harassment and the pain it caused the accuser, and by making restitution as a way of healing the guilt and shame that had been papered over with rationalization, fear and defensiveness.

These goals call for a high degree of mediator skills in empathy and non-judgmental communication. They suggest that when mediating sexual harassment disputes, the following ideas and techniques be kept in mind:

1. Whenever possible, co-mediate in male/female, and where necessary in attorney/therapist teams. Even though the accuser may feel anxious or reluctant to have a male mediator, the process of describing the incident and hearing a sympathetic response from a male listener will help the healing process.
2. Before the mediation, begins, find an opportunity to speak to the accuser or her/his representative to ascertain her/his state of mind and emotion. If you speak to one side you should speak to the other as well.
3. Begin the mediation by inquiring as to whether anything could be done to make the parties more comfortable. This may be done in caucus or telephone conversation before the mediation begins.
4. In tone of voice and softness of approach, make sure the parties recognize the seriousness of the issues and are prepared to respect each other's boundaries.
5. Do not assume anything. When strong emotions and sexuality are present, memories and perceptions are notoriously inaccurate on all sides.
6. No matter what the allegations are, you are not the judge, nor is it your role to punish or even determine what happened, but to help the parties arrive at an understanding and agreement..
7. Always ask the accuser to speak first. Make certain the accused is present emotionally and listening, if necessary by asking whether s/he feels able to listen to what is being said.
8. Create a safe space for both parties by asking them to speak initially to you rather than to each other. Make certain there is adequate physical separation and security for the accuser in setting up the physical space, preferably with a table between them and the accuser closest to the door.
9. Strongly encourage the accuser to describe what happened in the presence of the accused. This may require a caucus for the mediators to present the reasons, talk through objections and create solutions for any possible problems. Most

accusers are understandably reluctant to confront those they accuse and re-expose old wounds. Yet accusers who do so become stronger and repair damage due to their own perceptions of complicity and powerlessness. Moreover, healing can only happen if the wound is uncovered.

10. Do not force this or any other issue. Create another session if necessary.
11. The accuser will likely form an emotional contact or deep level of trust with one or the other mediator based on intangible and intuitive factors. This person should conduct most of the questions to the accuser while the other mediator questions the accused.
12. While the accuser is describing the incident, the mediator who is going to drive this part of the session should create a “tunnel” of intense and focused attention between him or herself and the accuser, so that it feels as though there were no other people in the room. No one should interrupt, not even the co-mediator, as the accuser is taken deeper and deeper into the pain and humiliation of the event in a deeply respectful and healing manner.
13. While this “monologue” is taking place, the co-mediator should actively be monitoring the state of mind of the accused to make certain that a respectful and productive response will be forthcoming.
14. As close in time as possible to the deepest moment of vulnerability and pain for the accuser and after finishing the story, the co-mediator should ask the accused to speak directly to the accuser, assuming the mediators believe a respectful and productive dialogue will ensue. If not, the mediators should bring the accuser through detail-questioning back to a safe level of discourse, thank her or him for the honesty and willingness to share painful details of the experience, then ask the accused to address the mediators in response.
15. If the accused is unable to apologize, the mediators may do so as “surrogate” apologists, saying slowly and sincerely: “Perhaps what \_\_\_\_ should have said to you is ... ‘I’m very, very sorry for what I did, and I know that nothing I can say can make up for what I have done.’ etc. The mediators should say what they would want to hear if they were the accuser.
16. Most sexual harassment cases that come to mediation will involve gray areas, sexual miscommunication and misunderstanding, and a range of legitimate to quasi-legitimate excuses for behavior. Discovery of what went on in the mind of the accused will help the accuser gain perspective on what happened.
17. Perpetrators need to be helped to understand that it is possible to be sorry for the effects their behavior had on the accuser without apologizing for intending them harm. This counseling may have a greater impact if it takes place in caucus. If the mediators are unsure of how supportive the accused is prepared to be, it is best to caucus to make sure that some kind of apology is forthcoming.
18. The mediators should ask both parties to help create a list of the structural, cultural and other causes of the incident that are present in the work environment, including a lack of awareness of employees of the scope of the problem, a lack of training for managers, a lack of internal remedies or support systems for accusers, etc.. This will allow them to form common cause in the creation of institutional solutions, generate a feeling that something will be done to make sure this doesn’t happen again, and permit a potential for healing in the

ability to agree on solutions, all of which will prepare the parties for the negotiation of restitution.

19. In conflict, money equals pain, and the nature of the humiliation will determine the nature of the negotiation. It is not uncommon for the parties to symbolically or metaphorically re-enact their relationship in the negotiation process. The mediators need to look for opportunities to reframe the discourse in the direction of healing, as opposed to continued victimization or denial.
20. Each party may be asked questions such as: "What have you learned from this experience?" or "Say one thing you will do to make sure something like this never happens to you again." or "How do you plan to put this behind you and get on with your life?" or "What could the other party do or say that would help you reach an agreement today?" or a more risky question: "What would it take for you to forgive the other person?"
21. The accused may need to be helped by the mediators to see that the payment of money to the accuser is not a measure of their wrongdoing, but of the emotional and psychological damage experienced by the accuser as a result of the lack of clarity or respect or responsiveness on the part of the accused, and that this damage could be permanent.
22. The mediators should attempt to involve other representatives from the workplace in attempting to correct these problems, and to do so through prevention and proactive measures, rather than waiting until after the fact.
23. One measure of success in a sexual harassment mediation is an increased awareness on the part of the accused as to what he or she did that created the problem and how he or she might avoid similar difficulties in the future. It also may be found in an increased awareness on the part of the accuser that many of those who are accused are simply someone else's accuser. Success will also be seen by the accuser in the degree to which she or he feels successful in confronted the accused and compensated for the pain.
24. At the end of the session, be sure to compliment the parties on their willingness to come into mediation and to talk about difficult emotional issues in front of each other. Encourage both of them to continue talking about the incident to someone, preferably a therapist, and then to let go and forgive themselves and each other for what happened.
25. Throughout the process, remember that the best remedy for humiliation is acceptance, and that your behavior and attitude will reflect your intention and your judgments about the parties, and these judgments will interfere with your ability to be simultaneously accepting and honest, which may be your greatest contribution to the process.

## STEP VII: CONFIRM THE COMMITMENTS

### FINALIZING THE AGREEMENT

#### A. Drafting the Agreement

##### The Written Contract

- \* Print everything legibly.
- \* After you have filled out the contract, read the agreement section to the parties. Ask if there needs to be any additions or deletions. Make whatever changes they suggest and each agree to.
- \* Make sure each of the parties reads, signs and dates the Agreement.
- \* Tell the parties that this agreement demonstrates that each of them have seriously committed to solving their problem and this Agreement Contract acts as a written record of their solution.

##### Congratulate the parties for their Hard Work in Reaching an Agreement

- \* Validate the parties' efforts by letting them know that their work in solving the problem is appreciated.

#### B. What Prevents Resolution?

In addition to the negative feelings that block agreement, there are four positive feelings that can keep us from resolving our disputes:

1. The solution to the problem is too *close* to be recognized. Just as our minds cannot grasp their own nature, conflict cannot comprehend its own resolution. Yet the solution is *already* contained in the conflict.
2. The possibility of resolution is too *profound* for us to comprehend. When we are stuck in conflict we have no idea how to escape it. Yet we know intuitively that resolution could end in forgiveness and reconciliation, and in improvement and learning.
3. Resolution seems too *easy* for us to think that it is possible. If it were really that easy we could have done it before. Yet all that is needed to end it is for us to decide that it is over.
4. The possibility of resolution is too *wonderful* to believe in. The intense pleasure that comes from being released from conflict, of forgiving and being forgiven, of actually letting go of the conflict, is so strongly desired that we reject it because we want it so badly. Yet the experience of resolution and reconciliation is always within our grasp.

**SAMPLE LITIGATION SETTLEMENT AGREEMENT**

The undersigned parties, having met in mediation, hereby agree to resolve their outstanding legal issues with one another. The parties agree to the following material terms and conditions, which shall be incorporated in a formal agreement, to be prepared by:

1. The parties hereby agree to withdraw and dismiss with prejudice any and all complaints, petitions, or other actions filed against each other before any and all courts or public agencies, other than claims for Workers' Compensation, unless specifically included below, in exchange for the promises set forth herein.
2. The parties agree to execute full general releases.
3. Defendant/respondent agrees to pay plaintiff/complainant, the sum of: \$ according to the following payment schedule:
4. The parties agree not to discuss the content of this agreement, the facts of this case, what took place during the mediation, or the amount of settlement with anyone outside their immediate family, other than a therapist, accountant or attorney. They agree to ensure that their immediate family members also do not discuss this agreement with anyone.
5. All parties have read and understand the wording, meaning, and intent of the terms set forth in this agreement, which has been entered into knowingly, freely, and voluntarily without coercion, undue influence, or intimidation from either party or the mediator.
6. This agreement does not constitute an admission of guilt, fault, or wrongdoing by either party. This agreement shall not serve as a precedent for resolving any other petitions or complaints that have been or may be filed by plaintiff/complainant, or any other person.
7. The parties are solely responsible for any and all attorney fees and costs. Mediators fees shall be paid by:
8. The parties intend that this agreement shall be legally enforceable. Any issues arising under this agreement shall be referred to final and binding arbitration before the mediator, and the prevailing party shall be awarded attorneys fees and costs.

Party	Date	Attorney	Date
Party	Date	Attorney	Date

## SAMPLE WORKPLACE MEDIATION AGREEMENT

### **Agreement on Goals for the Relationship**

1. Mutual respect
2. Greater understanding of each other's problems
3. Greater willingness to work toward a mutually agreeable solution.

### **Specific Agreements**

The following points were agreed to as ways of achieving these goals:

#### A. Margaret agrees to:

1. Develop better skills in handling employees. Contribute more and be more understanding
2. Be more supportive, of Frank and the Central Administration Office.
3. Contribute more to developing teamwork.

In doing so, Margaret expressed the following concerns.

1. Recognition by Frank that there may be a trade-off of deadlines and efficiency with better personnel management;
2. Greater communication from Frank about problems he faces;
3. Inclusion as a team member and equal and fair treatment.

#### B. Frank agrees to:

1. A fair and objective personnel evaluation that reflects the actual operating condition of the division.
2. To try to bring Margaret up to comparable pay; to ask his boss for an increase to make her whole.
3. Additional Section Leader position: greater acknowledgment.
4. Budget control for each division. Margaret will explore alternatives for manager collaboration on budget issues, present them to Frank, and Frank will consider them with an open mind.

## AGREEMENT TO USE RESPECTFUL COMMUNICATION

The undersigned, in an effort to avoid misunderstandings, arguments and disrespectful communications, and having met in mediation, hereby agree as follows:

1. We will make a good faith effort to avoid all arguments in front of others.
2. We agree to try to listen to one another without interruption. If one of us indicates a desire to discontinue the conversation, the other agrees to stop.
3. Once we have stopped arguing face to face, we agree to continue to discuss the matter in the following order:
  - a. By telephone
  - b. By letter
  - c. In mediation
  - d. With our respective attorneys or in court.
4. At each of these stages, either of us may decline to continue the conversation and the other agrees to stop and proceed to the next step.
5. Both of us agree to refrain from making negative or disparaging remarks about the other to or in front of others, whether in person or over the telephone, and not to call the other at home without permission.
6. Both of us agree to remain outside the others workspace and home unless expressly invited inside.
7. Both of us agree not to make comments about the other's private life or relationships.
8. If, on request, one of us fails to stop arguing, the other may say, "Please stop." If that person still fails to stop, he or she agrees to pay the other person \$\_\_\_\_\_ for each sentence spoken after the words "Please stop."
9. Both of us agree to try to state complaints in the form: "I feel\_\_\_\_\_ when you\_\_\_\_\_." And "I would like you to \_\_\_\_\_."
10. If we have any difficulties interpreting or living up to this agreement, we agree to return to mediation.

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_

**GENERIC MEDIATION AGREEMENT**

The following provisions can be used if the parties wish to have them added:

The undersigned, having met in mediation, hereby agree as follows:

1. It is the intent of this Agreement is to produce a fair and equal result and to effect a complete and final settlement of all outstanding disputes between the parties.
2. Each of the agreements that follow has been reached voluntarily. The mediators who helped us reach these agreements did not act as our attorneys or agents, and are not responsible in any way for the substance of this Agreement.
3. We have been advised of our right to secure independent legal and financial advice before this agreement becomes final.
4. We agree that everything that was said in mediation is confidential and cannot be used in any subsequent court proceeding.
5. The purpose of this Agreement is to summarize our tentative agreements. It is not intended to be legally binding unless specifically stated herein or agreed to hereafter.
6. We agree that all disputes over the interpretation or enforcement of this Agreement shall be referred first to mediation.

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_



## STAGE VIII: CLOSE THE PROCESS

There is an immense difference between ending a conflict, completing it, and reaching closure. When we end a conflict, we abandon the field without achieving either an unambiguous victory or an irreparable loss. When we complete a conflict, we move beyond notions of victory and loss to resolve the underlying reasons for the dispute. When we reach closure, we move beyond completion to forgiveness or reconciliation, and the simplicity and clarity that reveal a true change of heart.

While ending a conflict may result from physical exhaustion or a logical decision that it is time to simply cut one's losses and move on, completion requires emotional release and a satisfaction of interests, even if only in the form of venting and compromise. For closure to take place, we need to discover what lies beneath the surface of our dispute, learn its lessons, and touch each other's hearts, for which no amount of logical reasoning or emotional venting will suffice.

Perhaps the greatest opportunity and challenge for the mediator occurs after the agreement has been reached. During this period and before the parties leave, the mediator can often transform their feeling of defeat and anger into feelings of victory and mutual respect.

The parties should be heavily praised for having faced their problems squarely, listened to one another's position, compromised and given up points that were important, avoided litigation, exercised restraint and responsible action, sticking with the process even when it became difficult, being honest and forthcoming, even generous to one another, having had the wisdom to choose mediation, reaching a binding agreement, and understanding the need to put this dispute behind them and get on with their lives.

The parties' egos, which have suffered in the dispute, should be restored by praise for individual strengths. Most importantly, whenever possible, the mediator should reflect positively on the parties' future, their underlying respect for one another, the value of their relationship, and the future possibilities for its improvement.

### WHAT IS AN APOLOGY?

- Apologies are *rituals* designed to cure arrogance through humility, obeisance, respect and appreciation for the suffering of others, thereby rebalancing power in the relationship.
- An apology is a statement that says “I value our relationship more than I value being right.”
- An apology is a shift from power-based and rights-based assumptions to interest-based ones that are not oriented toward maintaining power or rights in relationships but on improving them without deciding who was right or wrong.
- An apology is a *test* to see if you get it and can recognize the pain or harm that someone else experienced.
- An apology is the first step in a return to collaboration and problem solving.
- An apology is also the first step in letting go of false expectations, and forgiving oneself and others.

### WHAT MAKES AN APOLOGY EFFECTIVE?

- To be effective, the apology should :
  - Contain an acknowledgment or recognition of the harm that was done,
  - Include a sincere expression of regret, and
  - Not offer any defenses or rationalizations for what was done.
- What is most important is that the apology be authentic, and not legally hedged or circumspect.
- To be effective, an apology should be grounded in cultural expectations
- An apology should recognize the past and history, in order to prevent them from continuing into the future.
- Careful, defensive apologies are often worse than no apology at all.

### SIX ELEMENTS IN APOLOGY

To be effective, researchers at Ohio State University, in two separate experiments with 755 people, found an apology should contain the following six elements:

1. An expression of regret
2. An explanation of what went wrong
3. An acknowledgement of responsibility
4. A declaration of repentance
5. An offer of repair
6. A request for forgiveness

In both experiments, researchers found that the more elements the apology contained, the more effective it was rated.

## ALTERNATIVE WAYS OF APOLOGIZING

A little apology goes a long way. Sometimes, the best way of defusing anger is to apologize for misunderstandings or miscommunications which occurred, and for any discomfort your opponent experienced as a result of your anger. Apology does not mean you were wrong or bad. It means you understand what the other person experienced, and that you are sorry for anything you may have done to contribute to their discomfort. It can demonstrate quite simply that you want to let go of your anger and return to having a more positive relationship.

An apology signifies willingness to take responsibility for our behavior and contribution to the conflict. Our acknowledgment of responsibility enables our adversaries to follow suit. The acceptance of responsibility through apology often leads to resolution, and melting away the anger that keeps it going. We would like to suggest a number of different ways of apologizing from which you can chose.

- **Make your regrets about what happened completely clear.** *"I am very, very sorry, for what I did to cause the problem. [Give specifics]"*
- **Take full responsibility for what happened.** *"It was totally my fault."*
- **Specify the behaviors that were wrong or offensive.** *"I really apologize for having\_\_\_\_\_."*
- **Focus on the events and results that you regret.** *"I'm sorry you weren't told about this in advance. It must have upset you."*
- **Indicate your understanding that there was an alternative.** *"I could have handled it differently."*
- **Acknowledge the feelings that resulted.** *"I'm sorry for the pain this must have caused you."*
- **Don't be afraid of admitting failure and error.** *"This was my mistake."*
- **Ask for forgiveness, and wait until you receive it.** *"Can you forgive me?"*
- **Include yourself as one of those at fault.** *"We both seem to have screwed up."*
- **Indicate what you could have done to prevent the problem.** *"I wish I'd spoken to you before this happened."*
- **Recognize the positive results of the error.** *"This has been a real learning experience for me."*
- **Make good on your promises quickly so that they see a result.** *"I will see that your name is put on the distribution list today so this doesn't happen again."*
- **Ask what they need from you.** *"What can I do to make it up to you?"*
- **Negotiate an agreement for future forgiveness.** *"What would it take for you to forgive me?"*
- **Suggest concrete steps you can take to resolve the dispute.** *"Can I take you out to lunch to make up for it?"*

Once you have chosen one, consider why you chose it, and rate it on a scale of one to ten, with ten being highest. If you did not choose an apology that was a ten, ask yourself why it is so difficult to make an apology that is perfect, strong and unambiguous.

The writer Susan Faludi has identified the extraordinary *power* of apology and forgiveness, as a counter-measure to our tendency to fictionalize conflict and blow it out of proportion:

"One hallmark of having true power is not having to be reflexive in your responses. Because along with other powers comes the power to forgive [others] -- to see one's grievances in proportion and not in the garish caricatures of Gothic romance."

The only way *out* of strong emotions is *through* them. By running away or suppressing them, we create internal knots. These knots sap our energies, keep us focused on the past, diminish our capacity to live in the present or plan for the future. We then get locked into behaviors we do not like, and are unable to transcend.

Our primary purpose in working through our emotions is to transcend them. Genuine transcendence comes when we own our emotions, and by owning them, release ourselves from their grip. As writer Milton Glaser has eloquently stated, transcendence is the primary task we are given in life:

"[A]ll life is about transcendence. If you're ugly you have to transcend your ugliness; if you're beautiful you have to transcend your beauty; if you're poor you have to transcend your poverty; if you're rich you have to transcend your wealth.... You get nothing at birth except things to transcend."

If we want to transcend our problems, learn our life lessons and take on a more advanced level of conflict, we need to release ourselves from their emotional grip. Once we have become free of their fiery control, we can use them to probe more deeply beneath the surface of our conflicts, and in the process uncover their hidden meanings, as we explore in the next chapter.

[Excerpted from Kenneth Cloke and Joan Goldsmith, *Resolving Conflicts at Work: A Complete Guide for Everyone on the Job*, Jossey Bass, 2000]

## REASONS FOR REVENGE

There are many sound reasons for revenge. The most compelling are:

- To obtain justice and fairness, see evil struck down and virtue rewarded;
- To remedy shame through arrogant action;
- To find release from anger in activity, in ritual;
- To communicate to the perpetrator what it feels like to be a victim;
- To make the crime understandable by repeating it;
- To justify a crime or causing harm oneself;
- To experience the ecstasy and sensuality of violence;
- To tear off the mask and reveal a deeper layer of feelings;
- To create equality between the victim and the perpetrator, in power, pain, humiliation and sacrifice;
- To satisfy the perpetrator's secret desire, or as Hegel argued, their "right" to be punished.

## REASONS REVENGE DOESN'T WORK

- Revenge strips the actor of the title "victim" and takes away the mantle of respect due by sympathy;
- Revenge cuts both ways. All violence wounds the perpetrator as well as the victim;
- The aim of revenge is to teach the perpetrator what it feels like, there are ways of doing so that do not condone violence by repeating it;
- Revenge is humiliating and degrading, even if it is also satisfying;
- Revenge is powerless even when it is powerful. It takes power away from the victim.
- When accomplished by the state, revenge is inhuman, impersonal, abstract, and cruel and supports a culture of violence.
- Revenge is easily overdone, ignores the humanity of the victim, and often leads to feelings of guilt or remorse.
- Revenge does not acknowledge the prior victimization of the perpetrator, or focus on the system that created it. It blames the victim and diverts attention from institutional or social change.
- Revenge is socially divisive, and may reproduce for several generations.
- Revenge encourages the victim to identify with the aggressor, and with the act of aggression as justifiable.

## WHY FORGIVENESS?

- 1. What is Forgiveness?**  
Forgiveness is a way of releasing ourselves from the pain we have experienced at the hands of others. It is a release from judgment, including our judgment of ourselves.
- 2. Forgiveness Is Not Condonation.**  
Forgiveness does not mean you agree with what the other person did to you. It does not mean you can change what happened or erase what they did. What's done is done. All you can do is release yourself.
- 3. Forgiveness is Not For Them, It's For You.**  
Forgiveness is not something you do for someone else, but to free yourself from the continuation of pain and anger. It is a gift to your peace of mind, your self-esteem, your relationships with others, your future.
- 4. Forgiveness is Freeing.**  
The purpose of forgiveness is to free yourself from the entanglements of the past, to reestablish control over your life by letting go of unpleasant events and people and reconnect with a healthy, positive direction. Holding on to anger and shame is unhealthy. Releasing it is freeing.
- 5. Forgiveness is In Our Control.**  
Forgiveness cannot be forced or coerced, it can only be given freely. It is a power each of us has independently of others. It is a choice.
- 6. Forgiveness Releases Us From Self-Destruction.**  
Anger hurts not only those it is directed at, but those who wield it as well. By not forgiving the person who wronged us, we continue to inflict on ourselves the pain they created.
- 7. Forgiveness Requires Us to Give Up Suffering.**  
Oscar Wilde said that suffering is a gift. It is also a need. Forgiveness requires that we let go of our need to be pitied, our need to be right, and our need to feel a intense connection with our tormentor through anger.
- 8. Forgiveness Means Taking Responsibility for Choices.**  
Forgiveness is a choice that requires us to take responsibility for our actions and feelings. It requires us to be responsible to and for ourselves, even for our pain and humiliation. It means being responsible for the choices we make, including the choice of anger and the choice of forgiveness.
- 9. Forgiveness is Powerful.**  
Anger appears powerful, but leaves us feeling frustrated and powerless. Forgiveness, which appears weak, leaves us feeling stronger and less vulnerable to others.
- 10. Forgiveness is Easy.**  
Most of us have not learned techniques to reach forgiveness, but we know it begins in the heart. All one needs to begin is to want to be released from the past. The other person need not be present, though it is better if they are. Forgiveness is seeing the other person and ourselves without judgment.

## 11. **What Follows Forgiveness?**

After forgiveness comes reconciliation, the ability to be in the presence of the other person without feeling angry or vulnerable. It is the highest point of healing. Reconciliation may or may not take place following forgiveness, since it requires direct contact with the other person to eliminate old patterns and create a basis for healthy emotional interaction.

### **FIVE STEPS TO FORGIVENESS**

1. Remember in detail what happened and how you felt.
2. Try to identify what the other person believed happened and how they may have felt.
3. Identify all the reasons for not forgiving them, all the expectations you had of them that they did not meet, or how you would have liked them to have acted.
4. Either:
  - A. Choose to release yourself from your own false expectations and all the reasons you listed for not forgiving them, or;
  - B. Identify what it will cost you to hold on to them.
5. Design and execute a ritual act of release, completion and closure.

### **FORGIVENESS EXERCISES**

1. Write down all the things the other person (X) did that angered or upset you.
2. Write down all the things you felt about X.
3. List all the negative words that describe X.
4. Write down all the expectations you had of X, how you would have liked for X to have acted.
5. List all the kinds of revenge you would like to take on X.
6. List all the reasons why you should not forgive X.
7. List all the positive words you could use to describe X.
8. Write down all the things you would enjoy doing with X if you could.
9. Write in narrative what you would like X to say to you.
10. Write a response, and X's response back.
11. List all the things you would lose or have to give up if you forgave X.
12. List all the things you would gain if you did.
13. Describe a ritual or ceremony that would allow you to surrender your expectations and forgive X completely.
14. Write X a letter forgiving X. Grade it on a scale of 1 to 10 in generosity and forgiveness.
15. List the actions you need to take to forgive X. Choose one to act on.

## TEN WAYS TO FORGIVE YOUR ENEMY

Several forgiveness mediation techniques work well in cases where shame or humiliation runs deep. Some of these are as follows:

1. Try to get the other party to say the words the injured party wants to hear. Words like "I'm sorry," or "What I did was unforgivable".
2. If the other party is unable to say those words, say them yourself, as in: "Perhaps what she should have said to you was, "I'm sorry, what I did was unforgivable..." Continue until you see the victim begin to relax and let go of his or her anger through body language.
3. Create a ritual revenge that allows the victim to expiate without causing the other party to suffer. For example, ask the victim to say what their favorite revenge would be, then to act it out with the mediator as stand in, or with a doll or symbol of the person in their place, then let the anger go.
4. Reveal the true origin of the victimization by showing the perpetrator as someone else's victim. Revenge caused revenge, which caused revenge, down through the generations. Revenge is simply a way of being proactive in the face of your own victimization.
5. Demonstrate that revenge is the same as victimization, by asking the victim questions that reveal the moral equality and objectification of the other which are common to both. For example, ask both parties to list the words that describe the other -- then look for similarities in tone and metaphor.
6. Explore through the self-interest of the "victim" why it makes sense to choose forgiveness over revenge, in order to be able to let go of the anger, get on with one's life, prevent future victimization, and so forth.
7. Ask the victim to imagine what forgiveness, as opposed to vengeance, would feel like in the long run. Or, for example, ask both parties to write a story that begins, "Once upon a time," describes what happened, and ends with "... and they both lived happily ever after."
8. Focus on the spiritual strength of the Gandhian solution, or that of Jesus or Martin Luther King, in virtue, self-esteem, and in not shrinking to the level of the other.
9. Suggest that revenge may be exactly what the other party wants, and that to deny it may be a higher form of retribution.
10. Help both parties first to visualize, then to create a ceremony or ritual to complete the healing process, from shaking hands to more elaborate rituals.



### DANGERS IN FORGIVENESS

- Getting stuck in revenge
- Becoming your opponent
- Condoning evil
- Slipping into sentimentality
- Moral superiority
- Moral relativism/absolutism/imperialism
- Triviality
- Kidding your self
- Losing the opportunity to create a deeper, more intimate relationship
- Never learning what the conflict took place to teach you.

### KIDDING YOURSELF ABOUT FORGIVENESS

- It's possible to think you have forgiven someone when you have only gone through the motions.
- It's possible to play a game of "One Upmanship" with forgiveness, so you will appear more righteous than the one you need to forgive.
- It's possible to forgive them in ways that condone or excuse what they did and encourage them to think it's okay to treat others that way.
- It's possible to forgive in such a way that you remain in denial and never end up forgiving yourself.
- The way around these diversions is to forgive the person and not what they did, and recognize that you and the person you want to forgive are the same.

## DESIGNING RITUALS FOR CATASTROPHIC LOSS

For many reasons, some originating in our fear of death, there are few fitting ceremonies for catastrophic loss. Even funerals fall short because they cannot encompass the full disaster for the living, but focus instead on meaningless rituals, homilies, and eulogies for the dead. At the same time, the very magnitude of people's grief makes it impossible to express. As Dante Alighieri comments in *The Inferno*,

At grief so deep the tongue must wag in vain;  
the language of our sense and memory  
lacks the vocabulary of such pain.

We require rituals to release grief not only for large catastrophes like death, divorce, and disability, but smaller ones, like being late, getting upset in traffic, and losing a promotion. These grief-releasing rituals reconnect us in non-trivial ways with each other, refocus our priorities, and give us strength by releasing our pain. To be effective, any ceremony to complete a conflict or catastrophe needs to invite people to:

1. Tell stories about what happened and express the pain it produced
2. Express regret and forgiveness for whatever we did and did not do that contributed to the suffering of others
3. Express regret and forgiveness for whatever we or others did and did not do that contributed to our own suffering
4. Speak or perform whatever is still unspoken and unperformed
5. Identify something positive we can do to prevent what happened from happening again
6. Commit part of our lives to making sure it does not happen again
7. Choose that the suffering will end with us

The form of the ritual should be non-trivial, and if possible, designed collaboratively by everyone affected by the tragedy. It should be based on a recognition that whatever parts of the past we carry with us make us less attentive to what is happening in the present, and that whatever we cannot see inside ourselves blinds us to what is happening around us, and allows it to happen again. With these truths in mind, we can take steps to design rituals of release, completion, and closure.

## DESIGNING RITUALS OF RELEASE, COMPLETION, AND CLOSURE

1. *Name the Change:* Identify the desired change: What do you want to release, affirm, or celebrate now that you have resolved your conflict?
2. *Symbolize the Change:* Symbolize what you want to change: What physical symbols or objects could you find, create, or buy to represent what you most want to change?
3. *Symbolize the Action:* Make the desired change come alive: What will you do with the objects or symbols to make the desired change feel real?
4. *Personal Symbolism:* Empower the change with personal symbols: What objects or symbols represent the new person you would like to become or relationship you want to have?
5. *Choose Place & Time:* Create the right time and place: What special time and environment do you want to select for the ritual?
6. *Witnessing:* Reinforce the ritual with a witness: Who will personally witness or participate in the ritual, or whom will you tell about it?
7. *Opening:* Select an opening: Begin the ritual in a purposeful, consecrated, and meaningful way.
8. *Intent:* State your intention: Say what you intend to change in your life and symbolize what you want to release or affirm through ceremony.
9. *Personal Stories:* Infuse the ritual with power: Talk about the significance of the symbols you selected, read favorite passages from literature or poems, play music, dance, sing songs, tell stories, or relate what led you to this ritual in order to give it meaning.
10. *Creating the Change:* Act out the desired change: Speak about the change and perform some symbolic act of release, passage, or affirmation.
11. *Affirmation/Commitment:* Make the commitment live: Engage in some significant act to express your commitment to a new way of thinking or being.
12. *Food & Friendship:* Share and express gratitude: Celebrate with food, drink, gift-giving, toasting, readings, songs, or friendship, even if you are alone.
13. *Renewal:* Reaffirm the change: Create a schedule to regularly and periodically remind yourself and reinforce your commitment to change.
14. *Closing:* Give thanks: Thank everyone who contributed to your learning or shared in the ritual and take symbolic action to bring it to a close.

(Based partly on research by Lynda S. Paladin and Evan Imber-Black)

## FIFTEEN WAYS TO SAY GOODBYE

1. Ask people, in their own words, to say goodbye, as though they will never see the other person again.
2. Ask two people to sit opposite each other, or imagine the other person in front of them, and complete the following phrases:  
*I fondly remember...(about you)*  
*I deeply regret ... (for myself, that I didn't)*  
*I wish you...(for the future)*
3. Ask each person to acknowledge the other person for something they learned or experienced from them, and thank them.
4. Ask each person to complete these sentences, repeating them as many times as needed:  
*I forgive you for...*  
*I forgive myself for...*
5. Ask people, "If this were the last time you were to speak with each other, what is the last thing you would want to say?" Or "What is the last thing you want to remember?"
6. Ask them to close their eyes and imagine themselves in a room with the other person. Each one is holding or doing something. What is each one holding or doing? What is the interaction? How do they feel? What do they think it means? Ask them again to close their eyes, imagine approaching the other person and saying goodbye to them. How did they do it? How did it feel? Now write down how they will actually say goodbye to the person.
7. Ask each person to say: "I accept you as you are and just as you have always been, and I release you to your own highest good."
8. Ask each to buy a present for the other (with an acceptable maximum price) that is symbolic of what *they* see in the other person that the other person either does not see or does not value in themselves.
9. Ask them to say whatever they feel they need to say to each other in order to finally and completely let go of the relationship.
10. Encourage them to design their own last ceremony using "power objects" or symbols from their relationship.
11. Pronounce people "Parted," "Separated" or "Divorced," or indicate that it is time for them to say goodbye to each other and ask them how they would like to do that.
12. If the person has died, go to their gravesite and speak to them silently or out loud. Tell them what you always wanted to say to them when they were alive but never found the time or couldn't.
13. Identify some of their best qualities, the ones you admired in them, and commit to developing those qualities in yourself.
14. Offer the person a blessing, as in "May you ...", and allow it to come from a place of great generosity inside of you.
15. Design and execute a ritual of release, completion and closure. A ritual is any act that you invest with meaning and then perform. Design the act in such a way as to release any toxicity that is left over from your relationship and retain whatever positive memories you have of the other person.

*(Some ideas from Marlene Halprin, Stephen Levine and Barbara Phillips)*

## CHANGING OTHERS: WHEN HELPING BECOMES A HINDRANCE

“Everyone thinks of changing the world,  
but no one thinks of changing himself.”

Tolstoy

Helping others is usually considered the opposite of selfishness and a high moral value. Yet there is a point where it becomes its opposite and moves into what Freud called “counterfeit nurturance”, and D.H. Lawrence referred to as “the greed of giving.”

A proverb on helping reads: “‘Let me help you or you will drown,’ said the monkey, placing the fish safely up in a tree. “ All helping begins not with the helped but the helper, whose subjective needs and myopia often combine to become the opposite of what the person being helped actually needs.

The opposite of helping is hindering, and as with all opposites, it becomes difficult toward the mid-point to discern which is which. Both occur in the absence of action by the helped. Each may suddenly become the other, as a result of either party’s intention. Helping and hindering are both efforts directed at another person, both are encouragements to action or inaction on their part. Both are expressions of concern and need.

The secret desire of helpers is to be helped themselves, to find in the other person’s distress a reason to satisfy their own need for gratitude or assistance, to create in the helped the helper’s need to feel powerful or successful. The secret need of the hinderer is for companionship, but one that resides in failure, since it is assumed that if the other person succeeds, they will leave or be proven more capable than oneself.

Helping becomes hindering through a kind of moral imperialism, in which the helped becomes an object to be manipulated in order to satisfy the suppressed needs of the helper. Erich Fromm wrote that our deepest need is to overcome our separateness, to leave “the prison of our aloneness.” Helping and hindering are ways of being together in the presence of adversity.

Helping becomes hindering when the helper does not acknowledge his or her own need to help; when s/he finds her or himself superior (or inferior) to those being helped; when the helping is dishonest or bureaucratic; when it lacks sympathy and integrity; when it is one-sided and asks nothing in return; when it asks something in return that it has no right to ask; when it is clouded in mystery; and when all the mystery is taken out of it.

While the desire to help originates in the desire to be helped, transferred to another person, it also originates in social irresponsibility, since groups of people needing help are created through the unequal distribution of commodities and resources, and then ameliorated by middle class professionals who “help” the victims of this inequality sublimate their rage. If our fundamental commitment as a society is to the wealthy, and only in a rudimentary and superficial way to easing the discontent of the poor, helpers will be seen as agents of conformity and acceptance, rather than as agents of social justice. Helping does not take place outside a larger context of systemic inequality, prejudice, culture and social class.

Helping can be accomplished in three primary ways:

1. As an imposition by the helper from the outside;
2. As though the helper and helped are the same;
3. Collaboratively, as a partnership between helper and helped.

In the first, decisions are made by the helper. In the second, decisions made by the helper are presented as those of the helped. In the third, there is an acknowledged difference between helper and helped which moves to consensus.

Sometimes, the best help consists of refusing to help. This is true in general of enabling addictive behavior, but also of the shift to self-help, which is prompted by a failure of help delivered by another.

Addiction is not caused by substances, but rather by the relief from pain substances afford. The underlying cause of addiction is therefore pain or suffering, together with a lack of skill in coping with it. While substances assist people in becoming unconscious of pain, which weakens integrity and self-esteem, true helping means becoming fully conscious and adept at experiencing the pain, which increases the strength and integrity of the sufferer. To become infinitely vulnerable is to become invulnerable.

True helping is a relationship based on compassion and personal connection, present in all partnerships and teams and in groups of all sizes. Helping may be accomplished differently depending on whether the issue is one that exists in the past, present or future. When the issue involves an issue that occurred primarily in the past, helping may consist of collaboratively processing the incident or problem, acknowledging its effects, searching for ways of connecting these effects, and learning to let go of what happened and get on with one's life. If the issue is one in the present, one may help with empathy, support, validation, overview, honesty, introspection, and choice. If the issue concerns the future, one can help through goal setting, strategic planning, preparation, prevention, and skill building, by helping people learn how to help themselves, and by forming collegial relationships or partnerships with those being helped.

We are our relationships with the world around us, which are a kind of vibration in which we participate. Effortlessness here consists of making these relationships transparent and elastic, becoming sensitive and skillful in awareness and infinitely vulnerable to the world around us. Effortlessness is the essence of all art. It begins, however, with the greatest exertion. True effortlessness arrives only with mastery.

## THE PERSONAL QUALITIES OF MEDIATORS

[Reprinted in *Bringing Peace Into the Room*, Daniel Bowling and David Hoffman, Ed.s,  
Jossey Bass, 2004]

*It doesn't interest me if there is one God  
or many Gods  
I want to know if you belong or feel  
abandoned  
If you can know despair or see it in others  
I want to know  
if you are prepared to live in the world  
with its harsh need  
to change you. If you can look back  
with firm eyes  
saying this is where I stand. I want to know  
if you know  
how to melt into that fierce heat of living  
falling toward the center of your longing. I want to know  
if you are willing  
to live day by day, with the consequences of love  
and the bitter,  
unwanted passion of your sure defeat....*

David Whyte

What are the personal qualities of the mediator? David Whyte's poem is probably the best answer because it reveals the hidden, subterranean soul of mediation, and leads us to where the magic begins, at the uncertain, *dangerous* edge of who we are and what we are doing.

The question is well worth exploring, partly because it is already the answer to a larger question, and partly because every thoughtful answer conjures up a set of deeper questions. In the end, neither the question nor the answer matter. What matters is the dance between them. What matters, in the words of physicist Richard Feynman, is "the pleasure of finding things out."

The question, "What are the personal qualities of the mediator?" already implies that mediation is a place where personal qualities matter; that there is no single correct answer to certain questions; that different answers enrich our understanding of the meaning of the question; that learning can take place within the invisible field of a well-posed question; and that mediation is a process in which the answer to certain questions might make a difference.

Every question we ask is one that asks itself of us, just as every intervention in the lives of others intervenes in our own lives, often in subtle, unpredictable ways. Deep questions are not objects we manipulate, but forces that also manipulate us. By asking and answering questions in mediation, we do not merely mediate, we both *become* and *create* mediation.

Conflicts, like dreams, are made of desires and fears, honesty and deceit, passion and surrender, all of which lie beneath the surface, and are revealed through a mediator's questions. Our willingness to answer these same questions ourselves gives us

permission to search for the piercing, pivotal, *dangerous* moments that can change people's lives, and the courage to seek them out, even in our own lives.

To answer the question "What are the personal qualities of the mediator?" we first need to ask "What is mediation?" There may be an infinite number of correct answers to this question. Here are a few that reflect my experience. Mediation is a search for the invisible bridge that connects every living being with every other. It is a poem made of intention and vulnerability, of ecstasy and suffering. It is a re-weaving of souls. It is an opening through which we are able to glimpse the Other, naked and divine. It is a synchronization of heartbeats. It is a fierce, life-and-death struggle of each person with themselves. It is a design for creating a different future. It is a gentle, responsive exploration of the space between us. It is a breach in the myth of what we know to be true, leading to transformation and transcendence.

By defining mediation in these ways, we automatically initiate a deeper level of inquiry. We now need to ask, "What are the personal qualities of mediators that can result in such mediations?" And, "What are the personal qualities mediators acquire as a *result* of mediating in these ways?" And, "Is the nature of mediation a result of our personal qualities, or is it the other way around, or both?"

In my experience, we are privileged observers, intrepid explorers, and in some cases skillful navigators, of the tides and currents, forces and fields, twists and turns that intersect, overflow, and silently meander through the conflicts we mediate. And we are better able to hear and help others navigate these tides and currents if we are able to hear and help ourselves.

Perhaps the first personal quality of mediators is the recognition that our "personal qualities" are fluid, and both a cause and an effect of what we do in mediation; that *who we are* is constantly being re-invented by what we do, just as what we do is constantly being re-defined by who we are. I know that mediation has changed me, and that while I brought a number of personal qualities that have aided me in its practice, I also brought a number that were useless or counter-productive. In the interaction between who I was and what I did, I discovered weak or insignificant qualities that suddenly became useful, simultaneously transforming both me and the way I mediated.

As with any craft, the more one practices the more skillful one becomes. Yet it is a conceit to think we are skillful or powerful enough to transform other people's lives without their active desire and willing participation, or that *who we are* matters most in resolving *their* conflicts. The fundamental reason we are successful is that they want us to be. Often all we do is clear the obstacles to their communication, and ask questions that lead them back to who they already are.

Nonetheless, there is a deeper truth concealed in the question. It is easier to assist conflicted parties in being authentic and centered with one another when we are authentic and centered, than when we are off-balance, inauthentic, ego-driven, or locked in conflicts of our own. The skills parties require most in mediation are the ones we *already* naturally possess, but have often forgotten how to use – skills of honesty, empathy, intuition and authenticity. These skills are less about unique personal qualities than the qualities of being a unique person.

As everyone is different, each of us approaches mediation in different ways, using different skills with numerous parties for different purposes, and thereby becoming



new people, resulting in radically different answers to the same question. For some of us, mediation means negotiating a cease-fire, while for others it is facilitating a settlement, ending a dispute, resolving the underlying reasons people are fighting in the first place, transforming the parties, dismantling dysfunctional systems, promoting compromise, encouraging dialogue, ending litigation, coaching parties to let go and move on, promoting forgiveness, empowering dialogue, recommending solutions, or achieving reconciliation.

Having said this, I believe there is a profound difference between the personal qualities of mediators who simply want the conflict to go away because it feels frightening and dangerous, and are relieved when it is over; and those who embrace each conflict because they recognize that the very qualities that make it frightening and dangerous also contain its' deepest, clearest truths, and are self-reflective when it is over.

The personal qualities of mediators will also differ with each variety and type of dispute. In conflicts involving teenagers, for example, it is clear that the most effective personal quality of the mediator may be *being* a teenager oneself. Organizational disputes, business disputes, inter-racial disputes, legal disputes, all call for qualities in the mediator that encourage trust and an ability to decode the subtle meanings of specialized forms of communication between the parties. According to this calculus, an angry, illiterate drug addict off the street could make a better mediator in certain kinds of conflicts than a reasoned, respected jurist.

The personal qualities of the mediator will also differ according to the question being asked. If the question is being asked, for example, by someone who wants to create a screening device that differentiates good from bad mediators, or to certify professionals by identifying criteria for inclusion, there will be a search for universal answers and objective measurements. But if the question is being asked by someone who wants to explore personal development, increase diversity in the profession, or identify a broad array of potentially useful mediation skills, there will be a search for qualities that are unique to each person, and can only be measured subjectively.

Mediation, in my view, should not become the exclusive province of college graduates, professionals or people with particular personal qualities. Rather, it is something we all need to know how to do. Nearly everyone can learn to mediate, from nursery school children to juvenile offenders, violent prisoners, illiterate peasants, political radicals and corporate executives, all of whom I have seen mediate successfully. Mediation is a life-skill and a social art in which everyone ought to be trained. In some distant, unimaginable future, mediation training might even be considered a human right.

If our reason for asking the question is our desire for acknowledgement or self-congratulations, or our desire to be better or more evolved than the parties with whom we mediate, the answers will be skewed, self-aggrandizing and inflated. In truth, parties in conflict can be more open to feelings, more vulnerable and honest about what is not working, more capable of listening and creative in coming up with solutions than their mediators. And we become *less* successful in resolving conflicts when we form too high an opinion of our own contribution in bringing it about.

If our reason for asking the question is to establish a norm, or set of optimal personal qualities to use in training others, we need to recognize, as Oscar Wilde quipped, that "nothing worth knowing can be taught." This does not mean it cannot be learned, but that certain kinds of learning take place from the inside out, rather than the outside in.

While instinct, empathy and intuition, for example, can be observed, discussed, cultivated and developed, it is extremely difficult to teach someone how to practice them. In addition, many of these personal qualities of mediators arise only through a long, deep, subtle process of self-examination that is not foreshadowed by the question.

For these reasons, we may want to pose a different set of questions for mediators to answer, questions that concern our *values* and self-discoveries, the challenges we have faced, the struggles we have fought with ourselves, and often lost, and the questions posed by David Whyte's poem. For example, some of the values mediation seems to encourage, both in the parties and more gradually in ourselves, include:

- Valuing conflict as positive, seeing it as an adventure or journey, an opportunity for growth and change, an invitation to intimacy and relationship, and an opening for transformation;
- Valuing diversity and difference, and rejecting stereotypes and assumptions of innate superiority and inferiority, correctness and heresy;
- Valuing openness, honesty and empathy in communication, process and relationships;
- Valuing agreement and commonality, oneness and humanity, and rejecting domination, coercion, humiliation, and suppression;
- Valuing cooperation and collaboration as primary and competition and aggression as secondary;
- Valuing the satisfaction of everyone's underlying interests;
- Valuing the integration of intellect, emotion, body and spirit, of authenticity and integrity, and the unity of inner and outer;
- Valuing the victory that is without defeat;
- Valuing forgiveness, completion and transformation;
- Valuing perseverance, and refusing to leave *anyone* behind.

[Adapted from Kenneth Cloke, *Mediating Dangerously: The Frontiers of Conflict Resolution*, Jossey Bass 2001]

By shifting the question and the dialogue that is prompted by it from a concern for personal qualities that seem innate, to values that are *developmental*, we challenge ourselves to continuously improve our capacity to act with integrity, to align our behavior with our values, and to become what we do. Personal qualities are what appear not only at the beginning, but at the end of the process, reflecting an internalization of values, which takes place only *after* they have been lived in practical, day-to-day relationships with others. The place to begin is not with a set of ideal personal qualities to which we vainly aspire, but with the arduous practical struggle to mediate and live every day consistent with our values, ethics and integrity. Only in this way can we find the answer to the questions framed by David Whyte's poem.

## SOME OCCUPATIONAL HAZARDS FOR MEDIATORS

1. Dysfunctional rescuing
2. Fear of conflict
3. Boundary confusion
4. Cultural relativism and condonation
5. Cultural imperialism and judgment
6. Addiction to results
7. Martyrdom to others
8. Exclusive ownership of process/ results
9. New age manipulation
10. Sanctimoniousness and moral righteousness
11. Information hoarding
12. Professional isolation and exclusivity

## POTENTIAL POLITICAL PITFALLS IN MEDIATION

1. *False Assumption of Symmetry:* It is mistaken to assume that oppressor and oppressed, occupier and occupied, powerful and weak are the same or that they can be treated as equally aggrieved.
2. *Tendency to Ignore Underlying Conflicts:* People in mediation often behave reasonably and want to reach agreements, and may ignore or avoid issues that could be disruptive.
3. *Acceptance of the Status Quo:* There is a tendency in mediation to accept and take for granted what is or have been the case for years, even when this is perceived by some to be wrong.
4. *Pressure to Compromise Principles:* People in mediation often feel pressured to surrender or compromise on points of principle in order to reach agreement, even when there are moral reasons not to.
5. *Dialogue as a Substitute for Action:* There is a tendency to substitute talk for action, especially for those who seek to change the status quo. Many see mediation as an end in itself, rather than as an effort to secure justice.
6. *Pressure to Renounce Allies and Practices:* Members of out-group and oppressed groups are often pressured to renounce violence, yet in-groups and oppressors are permitted to continue.
7. *Danger of Co-Optation:* Government authorities can misuse and co-opt mediation for their own purposes.

[Based on work by Palestinian Attorney Jonathan Kuttab.]

## LESSONS ON BECOMING A MEDIATOR

There is a false promise implied in this list, that what worked for me will work for you. Create your own list, and your own style as a mediator, since in anything related to human emotions there are no right answers, only ones that work and ones that don't. Listening to the "masters" focuses you on what others have done, but all paths are freshly created and paths are made by walking. Mine has revealed these lessons:

### **A. What Works**

1. *Passion.* If you don't deeply believe in mediation, find something else you do believe in.
2. *Intuition.* Trust your experience and perception, but not without introspection and a struggle for self-awareness.
3. *Vision.* Try to mediate everything even if you can't.
4. *Humility.* You are no better or different than those you help.
5. *Congruence.* Walk your talk. Be aware of the moat in your own eye.
6. *Honesty.* Tell people the truth but tell it gently, even if they can't hear it now.
7. *Risk-taking.* Push your limits. Be available for anything at every moment.
8. *Integrity.* Be willing to make each mediation client your last.
9. *Empathy.* Find both parties in yourself simultaneously.
10. *Commitment.* Mediate as though your life depended on it.

### **B. What Doesn't**

1. *Judgments.* What you think of the parties only interferes with your ability to empathize.
2. *Pushing.* Don't push, pull.
3. *Attachment.* Caring too much entraps you and cheats them of owning the results.
4. *Habit.* Don't continue carrying the raft after you have crossed the river.
5. *Over-extending.* Don't take on too much. Carve out some portion you can handle.
6. *Copying.* Do it your way, not theirs, even if you are in partnership with others.
7. *Pride.* If you focus on your successes you will be unable to learn from your mistakes.
8. *Impatience.* Every conflict has its own timing. If you rush it will only harden.
9. *Blaming.* Blaming others cheats you of the ability to learn and improve your skills.
10. *Greed.* If you are hungry or desperate or anxious for work others will shy away from you.

It is impossible to maintain balance between what works and what doesn't without paying constant attention to both. Two other lessons are important:

1. It will take longer than you expect to convince people to try something new, and they will be frightened by the truth of its power. It is better to undersell than to oversell.
2. Subject matter expertise and similarity to something familiar is helpful in getting people to try the process. Begin with an area you know well and expand.

A final point: mediation is not just a career or a way of earning money. It is also, for me, a healing profession, a spiritual path, a meditation, an ethical challenge, a self-analysis, an intellectual puzzle, a political statement, an act of love, and a gift, both to myself and to others. Placing too much focus on making it a financial success will diminish its meaning and importance and strip it of all its complexity and value.

### **WHAT TO DO WHEN YOU GET STUCK**

1. Pay attention to anomalies, problems and contradictions, and to what links them together.
2. Listen to metaphors and intuition, to poets and artists.
3. Search for antitheses, then for synthesis, then for brand new ways of looking at the problem.
4. Encourage "beginners mind," and elicit impressions from newcomers.
5. Bring awareness and dialogue what is unspoken and beneath the surface.
6. Reconsider and challenge judgments, rationalizations, explanations and expectations.
7. Tie the old way of thinking in a knot by asking questions it can't answer.
8. Give honest and empathic feedback - especially if it is painful to hear.
9. Create experiences that make people comfortable with and reinforce new ways of behaving and thinking.
10. Model changing your own thinking and behavior, and being open to change.
11. Do the unexpected. Push the envelope.
12. Focus attention on what is missing, on silences and the invisible.
13. Start small. Create pilot projects that do not appear to change anything.
14. Leave. Go far away from the problem, and return to see it with fresh eyes.

## CONCLUSION

In conclusion, please remember that this manual is not a complete guide to the practice of mediation. In this, as in other areas, most learning will be acquired through doing, through observing the parties in the course of their dispute, and most importantly, observing yourself and the effects of your actions and words on the parties' abilities to reach agreement. Remember that no technique will work with everyone, so be creative and follow your intuition.

A final word of advice: **Don't give up.** Keep trying new techniques. You may find that a new tack breaks the impasse. Agreement cannot be reached in all cases. If not, wish the parties luck and try to understand why settlement was not reached. It is not your responsibility to create settlements, but choices that ultimately rest with the parties themselves. No one can help someone who does not want to be helped, nor is "helping" always the right thing to do. It is important to be honest, empathic, and encouraging, but not manipulate or force a result that the parties do not want.

### **Success and Failure in Mediation**

Winston Churchill once defined success as "moving from failure to failure with undiminished enthusiasm." A similar definition might be applied to mediation, which begins and remains at impasse, which is a kind of failure, until, often for no definable reason, an opening appears and resolution takes place.

Success and failure are statements not only about what we have done, but about how we feel about what we have done, and who we think we are, since failure as a disciplinarian may mean success as a nurturer, and vice versa. These phrases are also deceptive, since the effect of success is repetition, whereas failure results in rethinking, experimentation and creativity, which promote learning and growth. So which is the success, and which the failure? If our goal is to increase learning without feeling badly about we are or what we have tried to do, neither concept is particularly helpful. As mediators, we tend to define success as settling disputes. But doing so means constructing our self-definition externally, around choices that do not belong to people us. The desire for success allows us to coerce others into accepting our success over theirs. What matters is whether we can increase our skills, learn, experiment, and take risks without fearing failure. In this sense, failure means trying too hard to succeed, while success means being willing to accept the possibility of failure.

### ***Sublime Mediation --"Thinking With The Heart"***

Anything one touches correctly, with the right spirit, leads to the center of things; or rather, from the center one reaches back to the center, while from the periphery one can touch only the periphery. In other indigenous cultures this is called "thinking with the heart," which is degraded to "subjectivity" and "irrationality" in Western culture. Yet the mind is not the only voice or the exclusive arbiter, but often acts to obscure or hide the truth.

The sublime, in mediation as in all arts, emanates from feeling rather than thought. It is mindful thoughtfulness, a purposeless intention that flows through rather than from the mediator. It is the invisible sap of human connection, which flows freely as obstacles are removed from its path. Our task is simply to remove whatever obstacles we can. It does not matter if we succeed. What matters is the simplicity of our intention, the skillful artistry of our ceremony, and our impeccable acceptance of this same truth about ourselves. Remember the words of Lao Tzu:

Yield and overcome;  
Bend and be straight;  
Empty and be full;  
Wear out and be new;  
Have little and gain;  
Have much and be confused.  
Therefore the wise embrace the one  
And set an example to all.  
Not putting on a display,  
They shine forth.  
Not justifying themselves,  
They are distinguished.  
Not boasting,  
They receive recognition.  
Not bragging,  
They never falter.  
They do not quarrel,  
So no one quarrels with them.  
Therefore the ancients say, "Yield and overcome."  
Is that an empty saying?  
Be really whole,  
And all things will come to you.

**GOOD LUCK!**