

Theoretical Perspectives on Mediation and the Third Party Role

Abstract This chapter provides an overview of the theoretical perspectives on mediation, with a focus on Western practice. After a brief history of mediation and the third party role, the concept of ideology is explored and considered in the context of the third party intervention. Relational ideology is presented as an emerging worldview that is later discussed in the context of being the underlying ideology of the Transformative Mediation Framework. The harmony approach and its organic ideology are introduced.

Keywords Transformative mediation • Relational ideology • Harmony
Organic ideology • Individualism

A BRIEF HISTORY OF MEDIATION

Throughout history, the third parties have been praised for their efforts in assisting competing parties in violent clashes, stubborn impasses, and trade wars. Mediation has boomed as an innovative approach that extended to community, family, and interpersonal disputes (Bush and Folger 2005, p. 7). Low-cost and accessible, the basic, quintessential mediation model was an informal process, where a neutral third party helped the parties in conflict to reach a mutually derived written agreement. In the late 1960s, two very different elements of society began to view mediation's potential in their own realms: "civic leaders and justice

system officials saw in mediation a potential for responding to urban conflict and its flash points; and community organizations and legal reformers saw in mediation a potential for building community resources alongside the justice system” (Bush and Folger 2005, p. 7).

Mediation grew from a few isolated programs in the early 1970s, to nearly 200 in the 1980s, to more than 400 in the 1990s (Bush and Folger 2005, p. 7). By 2000, the number of victim-offender mediation programs alone in North America exceeded 1000 (Umbreit and Greenwood 1999, p. 237). Following the foundations set by now-prominent scholars, such as Adam Curle, Kenneth Boulding, Elise Boulding, Johan Galtung, and John Burton, conflict resolution began to be addressed from a wide range of disciplines and institutional bases. The 1980s saw the formation of the United States Institute of Peace (1984), Harvard University’s Program on Negotiation (1983), and other academic bases for the study of conflict and its resolution both within and beyond the USA (Ramsbotham et al. 2005, pp. 39–54). Today, there are hundreds of companies and thousands of individuals engaging in mediation, conciliation, and arbitration, either in for-profit or non-profit companies or working in court-annexed programs related to commercial, community, public policy, family, housing, victim-offender, and school arenas (Poole 2015). Mediation has become such a common first step in small claims, divorce, and general civil litigation across the USA that the “use of volunteer and professional mediators has become institutionalized” to an extent that “courts often cannot imagine how caseloads would be handled without the use of these mediation programs” (Bush and Folger 2005, p. 8).

Determining where mediation fits into the range of the third party intervention options is one way of examining this boom of popularity and attractiveness to the process. The term “third party intervention” refers to any process where a person or a team is called upon to assist the parties in the conflict to resolve it. When those in conflict assume the roles of the first and second parties, the intervener is considered the “third party” and not directly involved in the conflict. There are three questions which are typically examined when considering what kind of intervention is possible: (1) Does the third party know the people in the conflict or not? (2) Does the third party have an interest in the outcome of the dispute? (3) Is it a single person or a group acting as the third party? The answers to these questions form what is called the Third Party Mandate, or what expectation the intervener and the parties have with the intervention and the role of the intervener (Folger 2003).

Mediation has hovered in the middle of this spectrum, with disputing levels of commitment to process and content control by the mediator. While the precise definition of the process varies slightly from practitioner to practitioner, the purpose remains constant: to provide the environment for parties to work with one another to create their own solutions to problematic issues that exist between them.

This is what classically differentiates mediation from adversarial methods of arbitration and negotiation (which focus on competitive motivations to an imposed resolution) and conciliatory efforts (which rely on parties to compromise and accommodate in order to salvage an existing relationship). Essentially, where mediation sits on this scale is dependent on the understanding of whether the parties control the process and the content of the mediation, the mediator controls the process and the parties control the content, or the mediator controls both. This distinction matters, because it delves to the core assumptions of what mediation is intended to provide, given an ideological context.

IDEOLOGY

Worldviews or ideologies are the ways in which human beings interpret and understand human nature and the surrounding world. How one interacts in conflict is dependent upon how one construes and makes sense of the world. Beliefs on human nature, conflict, and peace are drawn from “what interactions and outcomes *should* occur in conflict situations and why. These claims rest on ideological foundations that are often deeply rooted in a culture and therefore rarely unpacked and examined” (Folger and Bush 1994, p. 6).

People use ideology in their daily lives by providing a means to make sense of their surrounding world at the micro-level, in dealing with individual experience, behaviors, and practice. As a result, ideology is not solely a cognitive exercise, but affected by and has effect in social interaction. Ideologies are “acquired and expressed through social phenomena; people learn (and recreate) ideologies through participation in groups and relationships” (Billig as cited in Folger and Bush 1994, p. 7). Thus, ideology also has a macro-level characteristic, built by institutions and social systems to create an understanding of expectations of behavior at the micro-level.

IDEOLOGY IN THIRD PARTY INTERVENTION

How mediators view, utilize, and interact in conflict is dependent upon how they understand and make sense of the world at large. Bush and Folger have articulated two premises in which to analyze mediation “as a form of conflict discourse shaped by ideology” (Folger and Bush 1994, p. 7). While deeply rooted in culture, ideologies are acquired, learned, and expressed in social groups and relationships, enabling them to be recreated and passed on (Billig as cited in Bush and Folger 1994, p. 7). This is the macro-level characteristic of ideology, built by institutions and social systems, and includes rules and regulations that create expectations of behavior. Second, there is the micro-level characteristic, which includes the everyday behaviors and practices. This is, nevertheless, a very powerful element of ideology: “...people’s discursive choices create important social consequences.... These choices ultimately distribute power, establish the acceptability of social relationships, and constrain the ability to imagine or enact alternative social arrangements” (Folger and Bush 1994, p. 8).

Broad policies at the macro-level of institutions and society will inevitably affect individuals and groups at the micro-level. Ideologies at the macro-level establish power and influence for certain groups within the micro-level (Folger 2003). Consequently, it is necessary to survey what the ideologies of these groups are in order to ascertain whether the methods used in conflict resolution reinforce these influences in a negative way, or whether within alternative ideologies, there are constructive communication techniques in conflict resolution.

Categories of ideology are relevant to the role of the third party intervention. These conflict ideologies carry implicit notions of what conflict is, as well as expectations about what moves or responses are possible or required in specific contexts, what role third parties play, and what outcomes are desirable (Grimshaw as cited in Folger and Bush 1994, p. 8). In communication theory, conflict is considered “a socially created and communicatively managed reality occurring within a socio-historical context that both affects the meaning and behavior and is affected by it” (Folger and Jones 1994, p. ix). Bush and Folger have outlined four distinct areas, where the views of mediators should be measured: View of Human Nature, View of Conflict, Views of Productive/Destructive Conflict, and View of Social Institutions.

In determining a mediator’s view of human nature that their practice is based on, there is a curiosity in how mediators view parties in conflict

and linking this to assumptions on overall views of human nature. Mediators may think that parties are incapable decision makers during conflict, weak in discussing what it is they want, or perhaps emotionally overbearing. Understanding how mediators view human nature is one way to bring ideology to the surface.

When the view of human nature is examined, there is a wide understanding of what conflict is and is not. By looking at whether the conflict is understood by a mediator to be a contest over perceived incompatible goals, a problem to be solved, or a crisis in human interaction, each understanding will bring very different ideals on how to tackle it both in theory and in practice.

Knowing when the process is going well or not is another way of determining an underlying ideology of how to approach intervention. How would a mediator know that the session is going well? Is it that parties are working on points of agreement, or respectful to one another or the process, or articulating their points clearly and being able to acknowledge the other's points? Knowing when the mediator sees the process as going well or poorly is an indication of how mediators would see an ideal process play itself out.

Finally, a mediator's view on social institutions is an indication of their understanding of how these macro-level institutions should function in day-to-day life, and what they can accomplish. These social institutions may be courts, families, schools, religious congregations, or other areas of large influence. While some mediators may think that mediation should be independent of court control and influence, others may believe that precedents set by earlier, related cases should have value in determining settlement. In addition, some mediators believe that mediation has the capacity to feed benefits experienced from the private sphere of mediation back into the public realm. That is, that the personal experience of mediation can "reinforce the civic virtues of self-determination and mutual consideration are therefore of enormous public value" (Bush and Folger 2005, p. 82). The concepts of social institutions and their role in conflicts provide another category in which to appreciate the ideologies that mediators use to view their work.

INDIVIDUALIST IDEOLOGY

Individualist ideology has been the predominant ideology in Western society for over 250 years. As a result, the traditional Western problem solving is "essentially aligned with Individualistic assumptions about

human nature and social interaction” (Folger and Bush 1994, p. 13). This ideology is what informs the core practice of problem solving or settlement-driven mediation which is heavily practiced in the USA and Europe.

Individualism has evolved through the lines of reason and rationality as first discussed by Plato and Aristotle. Western political philosophers of empiricism would later refine the terms of how people should act toward each other in a particular political context. Putnam (1994) articulates: “Individual agency is a value that is esteemed in Western culture. It stems from a belief that society is made of distinct and radically separate human beings who act independently and are accountable for their own choices” (p. 341). Noone (1996) commented that “Western modes of dispute resolution have been predominantly adversarial and have emphasized rationality, individual rights, a restricted range of remedies and an objectively ‘just’ decision”; however, he notes in recent years that nations have adopted processes which stress self-determination (pp. 6–7).

Individualist ideology can be seen to affect individuals’ sense of themselves, their relationships with others, and their interaction with the world around them. Individualist micro-level ideology in practice includes the focus on the individual and their distinct goals or interests throughout life, leaving decision-making with the individual in order to ensure autonomy.

In macro-level Individualism, social institutions are “needed to facilitate joint pursuits, but they are even more important to protect against oppression and self-inflicted injuries” (Bush and Folger 2005, p. 245). The Declaration of Independence of the USA is a strong example. This perspective of equality and rights has not faltered from American philosophy. As a point of national character, Americans have stood up against the laws which restricted individual rights, including slavery, women’s suffrage, and civil rights. “Civil liberties have become central to American perceptions of what it is to be an individual as well as an American” (Dudley et al. 2003).

Individualism is evident in how American society values a limited government role in the lives of its citizens. According to McCormack (2001), the popular view is that government “should provide selected public services, uphold the rule of law, and enable individuals to achieve their goals, but it should resist the temptation to make too many decisions on behalf of individuals” (McCormack 2001, p. 42). Individualist ideology at the macro-level is, therefore, evident in the American

example through expressions by the government and social institutions on the expectations of behavior at the micro-level. The government's macro-level influence on the rules and regulations that create an expectation of Individualism in society includes how the constitution (through the Bill of Rights) guarantees such individual rights, the judiciary provides a means for settling disputes or crimes through legal precedent, and members of Congress represent the needs and interests of their constituents.

Social institutions, such as universities, religious groups, businesses, and families, can impart moral and ethical expectations at the macro-level as well, creating the expectation of how the world should be seen and how those within society should act within that frame. Within an Individualist ideology, these institutions should promote the value and rights of the individual because among a social world that is essentially 'an aggregate of individuals' individuals are not "fully capable of either agency or empathy" (Bush and Folger 2005, p. 245).

RELATIONAL IDEOLOGY

In contrast to the long-standing history of Individualism, the relational ideology is an "emergent" worldview. It has been built upon and reflective of work in a variety of fields within the past 20 years, including moral theory, psychology, political philosophy, sociology, law, and organizational theory. This is the underlying ideology informing transformative mediation practice, which is a relatively new process in the West.

According to the relational ideology, people are *interconnected*. Individuals have freedom and independence in their thoughts and actions and yet exist in constant relation with others. "[N]othing in the universe exists as an isolated or independent entity. Everything takes the form of relationships, be it subatomic particles sharing energy or ecosystems sharing food. In the web of life, nothing lives alone" (Wheatley 1994, p. 89 as cited by Lederach 2005, p. 34). In recognizing this interconnectedness, individuals are able to balance the need for autonomy with the need for others (Beal and Saul 2001, p. 10). When in conflict, this balance between self and other becomes frustrated, and metaphors frequently used to describe the feelings of being in conflict reflect those of powerlessness and alienation from the other person. Part of this is due to the way in which "protagonists view themselves, each other, and the conflict" (Curle 1990, p. 27).

This relational worldview, though a new concept in the mediation field, has foundations within other disciplines. Carol Gilligan, a theorist in morality and psychology, has noted that people are intensely relational because they are naturally a social species. However, more than that, when they speak, they are communicating and connecting the views of the individual with those of others. John Paul Lederach (2005) has argued that central to the concept of peacebuilding is accepting that “[w]ho we have been, are, and will be emerges and shapes itself in a context of relational interdependency” (p. 35).

Relational ideology makes sense of the daily experience through the lens of interconnectedness. Relational ideology contends that “human beings not only have the desire for both autonomy and connection but also the capacity for both (Bush and Folger 2005, p. 255).” Conflict communication can be considered a “moral conversation” or “moral discourse” as suggested by legal ethicist Robert Burns (as cited in Bush and Folger 2005, p. 254). The micro-level moral vision within the relational ideology values the balance between individual autonomy and social connection and supports this vision especially when these are unbalanced (such as times of conflict).

At a macro-level, relational ideology proposes that societal issues be seen through the same balance of freedom and responsibility. Political philosopher Michael Sandel suggests integrating individuality and social connection “through social interaction in communities that are not ‘instrumental’ but ‘constitutive’—interaction that allows and asks the individual to ‘participate in the constitution of its identity’” (as cited in Bush and Folger 2005, p. 252). Legal sociologist Joel Handler refers to “communitarian feminism”, where “the feminist conception of social interaction enhances autonomy, empowerment, and community simultaneously [and] can foster both individuality and connectedness” (as cited in Bush and Folger 2005, pp. 252–253).

Relational ideology views individual experiences as important, yet values the connections we make as human beings. This balance of autonomy and connection is what creates a higher potential and awareness in both the individual and the other.

TRANSFORMATIVE MEDIATION

The Transformative Mediation Framework is an evolving perspective on the theory and practice of mediation. Responding to criticism of mediation as an inherently flawed method of dealing with conflict, Bush and

Folger outlined that it was not mediation that was flawed, but the values that underscored the practice were not consistent with how the process was implemented; indeed, by being settlement driven, problem solving mediators could risk the values of self-assertion and self-determination that provided the basis for the problem solving approach to mediation. To distinguish the emerging transformative approach from the existing problem solving approach, Folger and Bush (2001, p. 23) developed *Ten Hallmarks of the Transformative Practice* to illustrate the unique mediation principles from a transformative perspective. Included among these are: leaving responsibility of the outcome to the parties, refusing to make judgments about what the parties' decide, taking the view that the parties have what it takes to create a successful outcome for themselves, focusing on the 'here and now' of the conflict, being responsive to emotions expressed by the parties, and believing that small steps can also be indicators of success.

Connecting Relational Ideology With the Transformative Framework

The relational worldview is founded on the value of transformation, "the achievement of human conduct that integrates strength of self and compassion toward others—both because of the great goodness of the human conduct that results and because of the great moral effort required to produce it" (Bush and Folger 1994, p. 242). With the value of transformation, the qualities of the human being that are viewed as central are those that are required to realize this value. The relational worldview perceives the "central feature of human nature as neither individuality nor connectedness, but the elements that relate the two in an integrated, whole human consciousness—the relational capacity. Human beings are thus simultaneously separate and connected, autonomous and linked, self-interested and self-transcending" (Bush and Folger 1994, p. 243).

The relational view of society and social institutions follows in this same vein. While an Individualist ideology views society as a necessary referee to protect and support individuals and their wants and needs, relational ideology views society as "a medium for the process of human relations and interaction, in which all the capacities of human nature, and especially the relational capacity, are enacted and the full potential of human decency is realized" (Bush and Folger 1994, p. 244). Social institutions within this worldview must engender a supportive, educational, constructive and positivist role. The role of social institutions must be

to orient individuals to their sense of strength and capacity to show concern for others. While social institutions indeed should provide protection for those in society, its role should not be limited to this. Instead, social institutions “serve not only to protect us from the worst in each other, but also to help us find and enact the best in ourselves” (Bush and Folger 1994, p. 242). Mediation forms one such institution.

Folger and Bush (2001, p. 76) argue that as human beings with interests in self and other, approaching conflict within this ideology uses the supporting value of transformation in considering response:

Relational ideology portrays the human world as socially and discursively constructed. Human beings are depicted as fundamentally social, that is, formed in and through their relations with other human beings, essentially connected to others, and constantly relating to others through dialogue.

Transformative mediation, therefore, would not see conflict as a “problem to be solved,” but a *crisis in interaction*. This crisis references the dyadic relationship between the individual autonomy and social connectivity, and is addressed through the relational ideology that underlies the practice.

Initially in conflict, disruption occurs in the relationship between the autonomous self and the connection with others, and parties become more alienated and destructive, distorting perception and experience of self and other. Because of this, parties feel more vulnerable and self-absorbed than before the conflict emerged. Transformative practitioners contend that for most people, this spiral is the most significant negative element of their experience of conflict. The authors demonstrate that the most effective way to make progress in conflict is to improve the *quality* of interaction, which in turn affects the parties and their interaction. Parties are capable to regain this strength and have the ability to acknowledge the other party and their perspective. As parties develop empowerment, their goals become clearer as parties describe the true nature of the conflict through their own words. Parties shift from a negative conflict spiral to points of connectivity by recognizing the other, showing signs of empathy, and taking natural turns in conversation. The *conversation metaphor* is the most illustrative way to describe the transformative framework to mediation, and the mediator role is to assist the parties in having a conversation by following their cues. Transformative practice focuses on improved *quality* of conflict interaction rather than aiming to solve a problem.

The terms that the transformative framework uses in describing these shifts from negative to constructive conflict interactions are “empowerment” and “recognition.” Empowerment relates to the party clarification and strengthening of goals, feelings, expectations, options, and events. Recognition refers to acknowledging or appreciating the other party’s emerging empowerment. While conflict can be destabilizing, parties engaged in the conflict have the potential to feel an overwhelming sense of weakness and self-absorption. “Conflict tends to lessen parties’ ability to accurately understand and assess their situations, think clearly about their own views, and deliberate confidently about their choices and options. As a result, parties are often uncertain, indecisive, confused, and disorganized as they engage each other about the issues that divide them” (Folger 2008, pp. 840–841). Conflict tends to reduce parties’ ability to consider the perspectives of the other and can result in a loss of an otherwise comfortable social connection. This negative conflict cycle prevents parties from considering the options and goals from their own perspective and from the understanding of the other, which “often undermines sound decision-making. Parties make choices that are rooted in a reactive, unreflective posture rather than a reflective, deliberate one” (Folger 2008, p. 841).

In transformative mediation, the goal is to address and transform the negative quality of the interaction in favor of a more constructive quality of interaction. To do this, mediators will assist parties to clarify individual feelings of uncertainty, as well as the support parties when there is a recognition or consideration of one another’s perspectives. This improved quality of interaction evolves out of the shifts within the conflict interaction. As one party becomes clearer and more confident on his or her goals or expectations (referred to as an “empowerment shift”), this party can show recognition, understanding, or awareness of the feelings and statements of the opposing party (referred to as a “recognition shift”) (Folger 2008, p. 841). As parties become oriented to their own agency and become more open to hearing the other, the conflict interaction changes from one that is destructive to one that is constructive; a transformation of the conflict interaction has occurred.

Transformative Mediation Process

The transformative mediation process may initially appear like the more common problem solving mediation process. Parties may take part in

pre-mediation sessions or phone calls and will meet together with the mediator or co-mediators for the process at an office. The mediation process, however, is not shaped by successive stages, but through following the parties through a conversation on the issues that bring them to mediation. The mediator's role is to support the parties through becoming clearer and more confident in their own goals and perspectives as well as supporting shifts that occur toward the recognition of the other party. Rather than having the mediator control the process, the parties themselves decide how their conversation is constructed and paced.

Behind this process is the acknowledgment that the parties have the capacity to resolve the conflict in a way that is acceptable for each of them and that the value of mediation is to improve the quality of the interaction through empowering each party, so that they may be able to connect with one another in ways that are constructive to the conflict. Della Noce (2002) articulates the strategies that transformative mediators employ when 'positioning the parties for constructive conversation' in great detail in her thesis "Ideologically Based Patterns in the Discourse of Mediators: A Comparison of Problem Solving and Transformative Practice," which informs much of this description of the transformative process.

The mediator orients parties to a constructive conversation initially through the opening statement or conversation of the mediation. Rather than having simply the goal of resolution in mind, transformative mediators orient parties to the possibilities of greater clarity and understanding, considering choices, making decisions, and including a decision to make an agreement. The mediator also affirms that this is a process owned by the parties and supports this through asking the parties for their goals, any suggestions for guidelines for the conversation, and inviting discussion on these. If open conflict ensues at this stage, the mediator's role is to assist parties in getting clearer on what guidelines to include or what reservations exist.

When parties speak on the substantive issues that bring them to mediation, the mediator's role is to summarize narratives, reflect statements and questions, and orient parties to one another. Mediator agency is downgraded through encouraging parties to speak with one another, even if this means interrupting the mediator. Instead of outlining the issues and negotiating each methodically, the transformative mediator

follows the parties in the micro-level content of the conversation. The mediator assists the parties in clarifying their narratives and orients them to their own agency. As parties become stronger independently, they are more able to hear and consider the other party. The mediator will summarize the conversation, including collaborative elements of both parties' stories as well as disagreements that they may still have.

As conflict emerges, the mediator opens this discussion just as he or she would with a disagreement with guidelines for the discussion. By following the parties as they describe the issues that create disagreement, the mediator opens verbal conflict and allows the parties to discuss these disagreements openly. Mediators tend to resist terminating this open verbal conflict, and instead allow for parties to speak directly with one another. Emotional expressions are addressed in the same vein, allowing parties to convey emotional responses with the support of the mediator, without framing these moments as "venting emotion." Bjerknes and Paranica (2002) explain:

We rely on emotional input in order to make decisions and prioritize information. Emotion is what non-verbal communication is made of and therefore, if we ignore the emotion, we also ignore more than 90% of human communication. We have found that if we recognize emotion as it is displayed, that the level of emotion naturally decreases. We have also discovered that if we fail to acknowledge emotion or prevent its revelation, the emotion in the room increases.

The mediator also "checks in" with parties in order to orient them to the decision-making nature of the process. He or she may ask the parties what topic they want to discuss and how to discuss it, especially when parties seem unsure of where next to take their conversation. Checking in is also used to determine available opportunities for decision-making, and highlighting options that parties have articulated in their conversation. Throughout this check in, mediators downplay their own agency and instead emphasize the capacity for the parties to make their own decisions about how the mediation process should develop. Should parties decide to create a physical agreement at the conclusion of the mediation, they may do this, but it is not the only measure of success. Success is also measured by the clarity, perspective-taking, and option consideration that parties achieved through the process.

HARMONY

The harmony model is adopted when the collective culture of a group is highly valued, such as religious, traditional, or indigenous communities (Alexander 2008, p. 114). The harmony approach, as with the transformative model, has values that inform the model's mediation practice, including views on individuals and society, conflict, and managing conflict.

“Organic” Ideology

In the harmony framework, a core value is the sustained well-being of the community. As Bush and Folger (1994, pp. 239–240) articulate:

the valued end in this view is the survival and welfare of some collective entity – a family, tribe, community, society. Harmony is a way of describing the necessary condition for community well being, because conflict can rip the entity apart. The value itself is really not harmony, but community survival or welfare, to which harmony is instrumental.

If the value in this perspective is collective welfare, the qualities sought in a human being are those relating directly to this value. Bush and Folger (1994, p. 240) outline such qualities:

the capacity to be aware of participating in something larger than self, to feel connected to others and to a common entity, and furthermore the capacity for subjugating the needs of self to the needs of the whole, for self-sacrifice and service... Starting from the value of harmony, the view of human nature is one that emphasizes connectedness, devotion, commonality, and selflessness.

Bush and Folger categorize this ideology as organic—with a life of its own that is independent and superior to any individual member. It is collectivist, as opposed to individualist.

The view of society within this perspective follows from this understanding of human nature. Values that are protected and preserved in the wider political culture with an Organic worldview include hierarchy, loyalty, and service. “Though in some degree to many of us from ‘intimate’ societal spheres like family, religious, or ethnic associations, this Organic worldview is not widely seen as relevant to the larger political culture in which we live,” assert Bush and Folger (1994), and “more

identified with other cultures, including premodern Western societies and contemporary non-Western societies” (p. 241).

Connecting the Organic Ideology with the Harmony Approach

Within an organic ideology, conflict is viewed negatively as it disrupts social order and risks the basis for stability within the community or group. Conflict threatens wider systems of relationships that support the social order; if relationships fail due to conflict, this weakens the power and cohesiveness that the society relies on to exist. Abu-Nimer (1996) suggests that in a collectivist Middle Eastern context, “even though a dispute might begin between two individuals or two families, it soon escalates to involve the entire community or clans. The group, not individuals, is a central [focus] of action...[C]onflict is negative, threatening, and disruptive to the normative order and needs to be settled quickly or avoided” (p. 46). LeResche (1992) describes how Koreans in America view that “conflict is not an acceptable condition; hence careful attention must be paid to avoidance of any activity that may cause discord... conflicts occur when at least one person does not behave in the proper manner toward another. When someone is selfish or insults another person, a conflict is created” (p. 326).

A harmony approach to conflict takes action to ensure that the factors causing the rift between members of the community do not evolve into a wider disruption to the cohesiveness of the group. The hallmark of a successful harmony approach to mediation is “the restoration of harmonious relationships that support the values of the community at large” (Folger 2008, p. 829). Conflict resolution from a harmony approach values the *interdependence* of the parties over each individual’s *independence*. Folger outlines three actions or conflict behaviors within this approach that aim to address the need for relationship restoration, including avoidance of conflict issues, saving face, and offering apologies and forgiveness.

Avoidance of Conflict Issues

In groups that enact a harmony approach, conflict is seen as negative. Conflict issues are avoided in order to ensure that they do not threaten the community. The maintenance of strong relationships within the community is highly valued, and in this case, more so than tensions may exist on an interpersonal level. A peaceful community is seen as one without

conflict. Leas and Kittlaus argue that the absence of conflict in this perspective is problematic in that “What is really going on in this situation is the repression of conflict for the sake of peace” (as cited in Folger 2008, 289).

Saving Face

Face saving is the way in which people maintain a positive self-image. When face is tarnished in some way, for example, when making a mistake, a face-saving technique may be employed in order to avoid embarrassment. Folger argues that within the goal of restoring relationships, face saving can be used to stabilize and satisfy relationships, where conflict has undermined the self-image of one or both of the parties. While the loss of face may not destroy every relationship “...true harmony depends heavily on interaction that assumes and conveys mutual face support... when face threats persist, they tend to escalate conflicts because issues related to identity—how parties see themselves—are rarely negotiable” (Folger 2008, pp. 831–832).

Offering Apologies and Forgiveness

An apology is constructed with an acknowledgement, affect, and vulnerability and in line with the community expectations of how this should occur. While a loss of face can be damaging, “our moral relations provide for a ritual whereby the wrongdoer can symbolically bring himself low—in other words, the humbling ritual of apology, the language of which is often that of *begging* for forgiveness” (Schneider 2000, p. 266). Apologies and forgiveness are opportunities for parties to align with the core values of the wider community (Folger 2008, p. 832). Apologies can then be an opportunity to acknowledge, “norms and expectations of the community have been violated” (Folger 2008, pp. 832–833). Forgiveness offers the opportunity for the injured party to “acknowledge this intent and support the offender’s effort to realign with the broader norms of the community” (Folger 2008, p. 833).

The Harmony Approach and the Third Party Mandate

A harmony approach aims for the stability of relationships following a conflict and is frequently mediated by an insider within the community who is familiar with the parties and the issues, as well as the values

and ideals that the conflicting parties and the community at large wish to uphold. Folger outlines that “Because the outcomes of the conflict need to be aligned with the core values of the community, the mediator usually is assumed to have some degree of personal familiarity with these values... this means that the mediator him or herself is a member of the disputing parties’ community” (Folger 2008, p. 833). While mediators may not be a part of the immediate family or group in which conflict occurs, mediators tend to be from within the broader cultural community.

Wehr and Lederach (1991) articulate this concept of insider-partial to explain the value and trust placed on a mediator that is from within the community as well as with and for each side of the dispute. This model, based on the trust placed upon the third party, views an insider-partial as legitimate because of his or her personal relationships with the parties, connection with the community, knowledge of the norms and values, and their whole investment with the community. Mediators are chosen precisely because of their proximity to the parties rather than their neutrality from them. These qualities result in a third party’s legitimacy within the community, the confirmation of tradition, and the use of connections in order to resolve disputes. The insider-partial mediator will understand the context, the parties, the history of their relationship, and the issues that the parties face. The mediator’s relationship with the parties and the issues that bring them to dispute “establishes an expectation that the conflict the parties are addressing is not just their conflict, but is owned by and is threaded through the larger community” (Folger 2008, p. 834). The mediator represents the community when he or she assists parties to reach a resolution.

Mediators “are usually sought out for their wisdom, status, and persuasive presence rather than their technical expertise” (Alexander 2008, p. 114; Folger 2008, p. 835). Mediators are not necessarily professionally trained conflict interveners but gain their credibility and influence through their role in the community. “Their presence and contributions encourage parties to recognize that their accountability is not just to each other, but to the community as a whole.... The third party intervener takes on the responsibility of insuring that the conflict intervention process is linked to the community by including representative members who speak for community values” (Folger 2008, p. 835). The mediator position is thus filled by a person of some authority, trust, value, and respect within the society as a whole as well as with the disputants, such

as elders, chiefs, or religious or political leaders. The mediator's style is respectful and reflective, reminds parties of the larger commitment to the community, and remains optimistic at the ability for the relationship to be healed (Folger 2008, p. 835).

The third party mandate within a harmony approach is informal in terms of the use of insider-partial mediator(s) and the avoidance of formal bodies in order to address conflict. There is an expectation for the mediator to bring resolution, and the mediators involved have a high level of persuasion and influence within the community at large to bring conflicts to an end and to help restore relationships.

REFERENCES

- Abu-Nimer, M. (1996). Conflict resolution approaches: Western and Middle Eastern lessons and possibilities. *American Journal of Economics and Sociology*, 55(1), 35–52. doi:[10.1111/j.1536-7150.1996.tb02706.x](https://doi.org/10.1111/j.1536-7150.1996.tb02706.x).
- Alexander, N. (2008). The mediation metamodel: Understanding practice. *Conflict Resolution Quarterly*, 26(1), 97–123. doi:[10.1002/crq.225](https://doi.org/10.1002/crq.225).
- Beal, S., & Saul, J. A. (2001). Examining assumptions: Training mediators for transformative practice. In J. P. Folger & R. A. B. Bush (Eds.), *Designing mediation: Approaches to training and practice within a transformative framework* (pp. 9–19). New York, NY: Institute for the Study of Conflict Transformation.
- Bjerknes, D., & Parana, K. (2002). *Training emotional intelligence for conflict resolution practitioners*. Retrieved from <http://mediate.com/articles/bjerknes.cfm>.
- Bush, R. A. B., & Folger, J. P. (1994). *The promise of mediation: Responding to conflict through empowerment and recognition*. San Francisco, CA: Jossey-Bass.
- Bush, R. A. B., & Folger, J. P. (2005). *The promise of mediation: The transformative approach to conflict* (2nd ed.). San Francisco, CA: Jossey-Bass.
- Curle, A. (1990). *Tools for transformation*. Stroud: Hawthorne Press.
- Della Noce, D. (2002). *Ideologically based patterns in the discourse of mediators: A comparison of problem solving and transformative practice*. Unpublished Doctoral thesis, Temple University, Philadelphia, PA.
- Dudley, R., Miller, C., & Clarke, J. (Eds.). (2003). *Democracy in America: Unit 4 Introduction—Civil liberties: Safeguarding the individual*. Retrieved from http://www.learner.org/courses/democracyinamerica/dia_4/dia_4_readings.html.
- Folger, J. P. (2003, January 21). *Mediation: Principles and practice*. Lecture presented for Adult and Organizational Development, Temple University.
- Folger, J. P. (2008). Harmony and transformative mediation practice: Sustaining ideological differences in purpose and practice. *North Dakota Law Review*

- 84(3), 823–860. Retrieved from https://law.und.edu/_files/docs/ndlr/pdf/issues/84/3/84ndlr823.pdf.
- Folger, J. P., & Bush, R. A. B. (1994). Ideology, orientations to conflict, and mediation discourse. In J. P. Folger & T. S. Jones (Eds.), *New directions in mediation: Communication research and perspectives*. Thousand Oaks, CA: Sage.
- Folger, J. P. & R. A. B. Bush. (Eds.). (2001). *Designing mediation: Approaches to training and practice within a transformative framework*. New York, NY: Institute for the Study of Conflict Transformation.
- Folger, J. P. & Jones, T. S. (Eds.). (1994). *New directions in mediation: Communication research and perspectives*. Thousand Oaks, CA: Sage.
- Lederach, J. P. (2005). *The moral imagination*. Oxford: Oxford University Press.
- LeResche, D. (1992). Comparison of the American mediation process with a Korean-American harmony restoration process. *Mediation Quarterly*, 9(4), 323–339. doi:[10.1002/crq.3900090405](https://doi.org/10.1002/crq.3900090405).
- McCormack, J. (2001). *Comparative politics in transition* (3rd ed.). Fort Worth, TX: Harcourt College.
- Noone, M. (1996). *Mediation*. London: Cavendish Publishing Ltd.
- Poole, C. (2015). The future of mediation. Retrieved from <http://www.mediate.com/articles/PooleFutures.cfm>
- Putnum, L. (1994). Challenging the assumptions of traditional approaches to negotiation. *Negotiation Journal*, 10(4), 337–345. doi:[10.1111/j.1571-9979.1994.tb00033.x](https://doi.org/10.1111/j.1571-9979.1994.tb00033.x).
- Ramsbotham, O., Woodhouse, T., & Miall, H. (2005). *Contemporary conflict resolution*. (2nd ed.). Cambridge, England: Polity Press.
- Schneider, C. (2000). What it means to be sorry: The power of apology in mediation. *Mediation Quarterly*, 17(3), 265–280. doi:[10.1002/crq.3900170305](https://doi.org/10.1002/crq.3900170305).
- Umbreit, M. S., & Greenwood, J. (1999). National survey of victim-offender mediation programs in the United States. *Mediation Quarterly*, 16(3), 235–251. doi:[10.1002/crq.3890160304](https://doi.org/10.1002/crq.3890160304).
- Wehr, P., & Lederach, J. P. (1991). Mediating conflict in Central America. *Journal of Peace Research*, 28(1), 85–98. doi:[10.1177/002234339102800109](https://doi.org/10.1177/002234339102800109).
- Wheatley, M. J. (1994). *Leadership and the new science: Learning about organization from an orderly universe*. San Francisco, CA: Berrett-Koehler Publishers.



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