

## **Mediation: A Different System of Conflict Resolution**\_\_ by Richard Millen

*Mediation is a conflict resolution system which supports disputing parties in the self-determination of personal solutions to personal problems (which are hidden agendas in all conflicts) and of procedural, substantive and psychological satisfaction.*

“Our [adversarial] system is too destructive, too painful, too costly, and too inefficient for a truly civilized society.”

Warren Burger, Chief Justice of the United States (in 1984)

Since 1985, when I became aware of alternative dispute resolution, I have been interested in alternative dispute resolution as a real alternative to the present judicial system and the settlement conferences that are a part of it (confusingly some time referred to as “mediation”).

“Mediation” can be a completely different and transcendent system based on serving the parties to engage in self-determination by active listening, “I” messages (a non-confrontational and truthful technique of communicating how the speaker experiences the communications and conduct of others without provoking additional conflict responses), neutralizing language, and “dialogue” (defined as to “talk through to meaning” from two Greek words) explained in the tract written by Dr. David Bohm, a quantum physicist.

These aids, the other skills, the presence, modeling, other service of the mediator, and the structure of the basic community mediation model have been used by the Community Boards and the Neighborhood Justice Centers since the pilot programs of 1976 and thereafter. With the use of this process, the parties are able to suspend their judgments, opinions, and criticisms; hold opposites without trying to reconcile them; listen and better understand each other; be authentic and vulnerable with each other about what is going on with each of them personally. As a result, real emotions, agendas and concerns are disclosed and the reasons for them.

Engagement in this process results in a deep change of energy between the parties and the mediator and how the mind works. The process is non-hierarchical. The mediator and the parties engage in a common endeavor (rather than the mediator being a “fixer” and the parties “objects”). They reach a tacit understanding and gain insights they otherwise would not, acting as separate atomistic individuals. Their relationship changes from one of conflict to what Martin Buber called the acceptance of otherness. Further, when participants “admit their weaknesses to each other, their vulnerability becomes an ark for both of them.” Jacob Ben Shea in *Jacob, The Baker*. The disputing parties then do for themselves what they came for the mediator to do.

The process is not about the law or substantive expertise. It is a-disciplinary. It is about “getting out of the box” to give full attention to other points of view and what they mean. The process is not a means to an end, the process is the end, and can result in an ineffable experience. Solutions show up as epiphanies or reasons of the heart and address the interests, needs, values and other concerns of the parties for the heart has reasons that reason knows nothing of.

Each participant, including the mediator, gives up his or her tacit infrastructure of one’s own ideas and world view. Usually, in our society, this view is that the world is a place of scarce resources and we need hierarchical rules, principles and pedagogy to resolve the inevitable conflicts over such resources based on the inner need for the protection of the ego and self. This is a zero sum gain.

When disputants act on this fear that they are not enough and reach resolution of differences based on bargaining and compromise, all they are doing is moving the furniture around. By holding this world view in abeyance, parties begin to doubt their fears, delay acting on their emotions and challenge the impulses for attack thoughts, external domination, already knowing,

and being right. They become what the author of the Seat of the Soul calls “multisensored” personalities rather than the limited personalities of the five physical senses.

Martin Buber wrote in the Way of Man that since all conflict originates from within one must first straighten out oneself. When the conflict within goes away, so does the conflict with another. This is not to say that is the end of it. There is still work to be done: resolution of the personal situation between the parties and reconciliation in a creative and generative way.

This model of mediation creates the opportunity for each participant to straighten out himself or herself, to make a course correction toward, if not to, at-one-ment, for the sake of self and the relationship with another, which, if the parties are committed, can result in the resolution of the conflict and if continually practiced, a more peaceful and congruent life.

In a colloquy between Krishnamurti, a spiritualist, and Dr. David Bohm, Krishnamurti stated that he thought the right brain (the wholistic part) was the rational side and that the left brain (analytical and fragmented) was the irrational side. He wondered if mankind had made a wrong turn. In any event, as one wag has put it, “In mediation the participants find whole brain solutions to half brain problems.”

Einstein has said that since the most recent progress in science everything has changed but the way we think, and that we cannot solve problems by thinking the same way by which we created them. We need a cultural shift by changing the way we live with and respond to diversity and conflict. We can do this by changing the way we think about diversity and conflict. If we can change the way we think, we can change our language and our behavior in response to both diversity and conflict, for as Ken Cloke has written, they are not the same.

According to Martin Buber, such a change would not be based on pedagogy or principles. It must be based on acceptance of otherness, holding opposites, choosing peace of mind instead of our attack thoughts and language. As radical empiricists incorporating into our lives the experience of feeling connection with others, a phenomenon beyond the cognitive that we cannot explain scientifically, the community mediation model provides us a radical alternative to conflict resolution which is effective, healing, economical and self-empowering. It also provides us with the opportunity to incorporate a different dimension to life: not merely a means to an end, but the end. When you are working on yourself, you are serving others and when, as mediators, you are serving others, you are working on yourself. It is the same. You cannot tell the difference.

It appears that the realm of the quantum physicist and spiritualist are the same, beyond form, and that the scientific reductionist method is not the only route to useful and beneficial living. Both are the basis for the connection of all life and the universe beyond form. However, until a more common language is available, we need to be careful about the language we use to describe the reason the community model of mediation works, if we get into this subject at all. Many in our society are likely to be turned off by language which sounds to them as religious, new age, or “touchy feely,” particularly those whose lives and livelihoods are based on scientific reductionism, left brain analysis and fragmentation, various professional disciplines, and other pedagogy and principles. One early volunteer mediator and trainer called it “magic.” I like that description because you cannot control and make the experience of connection happen. It is there all the time. As physical growth you must let it happen.

It has been sufficient in the past to just train, teach, practice, and “be” the skills, structure, and peace of the system with the ultimate instruction to “stick to and trust the process.” It works.

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