

UC San Diego

Other Recent Work

Title

Case Study #7: Empowered Process---Skilled Leadership: Diffusion, Party Capacity & Speaking Truth to Power

Permalink

<https://escholarship.org/uc/item/5j65k1zj>

Author

Erbe, Nancy

Publication Date

2002-07-01

CIAS WORKING PAPER

Cover Sheet

Readers are encouraged to send comments and critiques directly to the author. Because of this text's deliberate "one of-a-kind" format, detailed page-by-page comments and questions are welcome. This paper presents Case Chapter 7, in a series of case studies for a future conflict resolution textbook. An "Introduction to Conflict Case Studies" is also available to guide use.

The text has been successfully piloted with several international classes. Those, who benefit most, stress the importance of carefully studying the introduction. Because the case study format is intentionally unique, written in an interactive and non-linear workbook style, unlike many introductions, the information provided is required for understanding. The introduction is so critical to effective use, the most important paragraphs are repeated at the beginning of each case study. Confused readers are encouraged to read the "Introduction to Conflict Case Studies" in its entirety.

Readers report rich reward when they approach the case studies in the interactive workbook style recommended, and, for example, take time to reflect on questions; add their own opinions and interpretations. They also do the activities, applying conflict research, theory and approaches presented, to case study and personal experience. Their main challenge is accepting that thorough analysis and practice cannot take a lifetime.

The author is particularly interested in comments that will help instructors and individual users around the world fully understand and effectively use the text's curriculum for important social change. For example, would you suggest an instructor's guide?

Please also let the author know what you appreciated most and would like to see "more of" in future texts. These case studies are part of a larger vision for evaluating and sharing effectiveness with leading non-violent peace and conflict resolution efforts. The author would appreciate hearing your "success stories" and the most troubling challenges (including ethical and cultural) you face. Thank you and best wishes.

Author: Nancy D. Erbe, J.D.
Director, Rotary Center for International Studies in Peace and Conflict Resolution
Lecturer in Conflict Resolution, Peace and Conflict Studies (www.rotary.org)
International and Area Studies
University of California, Berkeley
Berkeley, California 94720
Tel: 510-642-4679
Fax: 510-642-9850
nerbe@socrates.berkeley.edu

Title: **Holding These Truths: Empowerment and Recognition in Action**
(Applied ethics & diverse cultural perspectives for advanced conflict resolution)

Source: Proposed textbook prepared for the William and Flora Hewlett Foundation

Sponsors: UCSB Global Peace & Security Program (part of UCIGCC),
William and Flora Hewlett Foundation

“Introduction to Case Studies:” Excerpts

Teaching a case is a story, describing or based on actual events and circumstances, that is told with a definite teaching purpose in mind and that rewards careful study and analysis...

In the real world, the solutions to complex problems cannot be found in textbooks nor will everyone agree on the “right answers” to difficult questions. The case method prepares learners for a world that demands critical thinking skills and the ability to create convincing arguments, often with little time and incomplete information.

Laurence E. Lynn Jr. *Teaching & Learning With Cases* (1999).

Readers may feel somewhat disoriented, confused, and even a little anxious, when they first read case studies, especially if they are accustomed to texts that present information in a linear logic. In the latter, points are described step-by-step and connected with explanations.

Here, however, each case study deliberately goes back and forth between describing 1) important case study facts, 2) conflict and resolution theory, 3) ethical perspective, 4) cultural views, 5) questions for the reader, and 6) application opportunities for reader analysis. No explanation is provided. Readers are likely to miss valuable learning unless they carefully read and respect the interactive suggestions. The reader is expected to develop her or his own thinking by, for example, actively asking: What is the possible connection or relevance of this information? What do I think? What are my reasons? What options exist there? What criteria do I propose for evaluating alternatives?

(I)ntermediaries can learn from experiences in dealing with past conflicts, but there is no model that can be applied to all cases. The unique features of each must be examined carefully and adjustments in strategy made throughout the process, which is invariably complex and sensitive.

WHAT TO DO WITH MISSING OR VAGUE INFORMATION

Case studies are often open-ended, or incomplete, to emulate real life ambiguity and complexity, and help users develop critical thinking and confidence required in the face of challenge and uncertainty—particularly these cases. These are concept, principle and process application cases, rather than decision-making, policy making or illustrative cases. For readers new to case studies, decision-making cases require actual decision, with simulated pressure. Lynn, *supra*. Policy making cases direct the creation of framework or processes for policy making. Illustrative cases record historical success and failure. Application cases, however, focus on increasing student skill, without necessarily requiring decision. Decision-making, policy making and illustrative cases necessarily contain more descriptive and substantive detail than application cases. *Id.*

These cases are deliberately even more open-ended than many application cases, with sparse facts, for several reasons. First, they intend to teach and guide advanced conflict resolution skills, including the ability to identify important information gaps and “fill them” through, for example, framing excellent questions and acute observation. In real circumstances, particularly complex ones, conflict intervenors, like detectives, face many unknowns. They must be willing and have the courage to navigate uncharted waters. Oftentimes only seasoned judgment (their own and respected colleagues) is available for determining whether understanding is sufficient.

I wanted more specifics about the original conflict to begin with, but I also understand that some of the ambiguity is simply how one has to enter conflict scenarios. We will probably never hold all the pieces of information when we start. Discovery is part of the process. This is

definitely a powerful process. (Anonymous student)

Second, responses to complex ethical and cultural dilemmas evolve. They are not solutions to be described or finalized, with simple logic or reference to expert authority. As one student commented, these are the questions with “no answers.” They require extended, perhaps life-long, reflection and dialogue, and, most importantly, consciousness of real world consequences, after attempted practice. Readers should feel no pressure to reach conclusions or provide answers. Questioning, reflection, discussion and awareness are the desired results.

(P) Peacemaking is marked by experimentation. There is no way to go about creating peaceful communities and a peaceful world. Working for peace will differ according to context.

Herr & Herr, *Transforming Violence: Linking Local and Global Peacemaking* (1998).

With cultural issues, majority and minority are used to avoid the stereotyping that unfortunately still too often accompanies specific labels. The open-ended cases allow readers to introduce, discuss and show their own cultural expectations and preferences with each other. With my students, this has been a much appreciated opportunity to create multicultural community and interdisciplinary dialogue, in relatively low-risk environments (at least in contrast to discussions in the heat of conflict.)

In my last multicultural conflict resolution class at the University of California, Berkeley, more than eighty percent of my students identified with one or more minority groups within and outside the United States. Several have dual citizenship. They are citizens of Argentina, Australia, Belize, Bulgaria, China, Costa Rica, Cyprus, Finland, French Polynesia, India, Iran, Mexico, Nigeria, Pakistan, Peru, Romania, Thailand, Turkey, and more than forty additional countries.

Everyone attempts to identify, describe and explain their own cultural experience, assumptions, values and preferences as they participate in conflict resolution. Ideally, the result is truly inclusive. At least, participants are empowered.

The ideal response is like one elicited with a Hmong student. One of the case studies resonated with her experience in the United States as a first generation immigrant and the first member of her family to feel comfortable speaking English. As a result, she spoke in great detail about her family's many cultural challenges and conflicts.

Readers are invited to reference and consider their own life experience with conflict whenever analyzing and discussing case studies. This engagement raises readers to the level of “peer partners” or “experts” with cases, and prepares them for whole-hearted participation in future role-play simulations.

The text is written so that no particular background or training is required or has an advantage. This is important with multicultural dialogue, where members of various cultural groups may be sensitive to others “speaking for them.” Others may simply stay quiet in the presence of authority. Still others might react with offense, angry accusation and heated debate. None of these responses promote the open, reflective and inclusive dialogue and learning desired here.

Once again, the purposes of this collaborative partnership are to fully engage readers in true life-to-life dynamics and maximize development of advanced skill and awareness. Unlike simpler negotiation exercises, where participants can be given a factual, even mathematical, formula for resolution, complex intergroup exercises require participant creativity, prolonged discussion, initiative and persistence. Developing necessary skills and attitudes may be the most realistic and important outcomes with complex, tough case studies.

These case studies have been field-tested with many different groups, ages eight to sixty, representing diverse groups within and outside the United States, and a wider range of interests, disciplines and professions. They include peace and conflict studies, social welfare, various sciences, public health and policy, psychology, pre-medicine, nursing, law,

environmental and development studies, engineering, ethnic and area studies, education, communications, business and political science. The issues raised in these cases are relevant and meaningful to most, partially because the detail provided is only what is essential to introduce the issues for exploration. More technical detail risks excluding less knowledgeable participants and narrowing the audience, while “cluttering” the ethical and cultural issues shared across the conflict resolution continuum.

Readers are free to adapt the cases to their own interests through integrating their knowledge and experience, or researching topics of interest. Some students have done interviews regarding culture, conflict and values. Others incorporate library and internet research.

Commentary is provided throughout the cases to help readers consider, apply and integrate relevant interdisciplinary approaches to and diverse perspectives regarding conflict resolution. An attempt is made to highlight and introduce some of the richest resources for advanced practice from a practitioner perspective. Commentary, questions and exercises are interwoven throughout the cases, rather than at the end, to further engage readers, simulate real world reflection and analysis, and guide readers in regular application of conflict theory, research and material --- also a habit and practice of advanced intervenors, popularly called reflective practice.

Like the cases, commentary is provided without explicit guidance or explanation. Readers are encouraged to continue proactively developing their own questions and thinking as they would in real circumstances, imagining ways of connecting the commentary to case material. At the very least, articulating one or more questions, regarding how the material relates to the case study, will engage the reader in necessary critical thinking, initiative and information gathering. The more complex the case, the more important these skills become.

In some ways, conflict resolution cases are analogous to business administration cases. Unlike law or medical cases, business and conflict cases lack a well-defined professional knowledge base and formal logical processes for application.

Business case analysis may draw on virtually the entire body of knowledge of behavior and social science and may make use of it in virtually limitless variety of ways. Originally, cases were just about anything... faculty could find to provide a basis for provocative discussion... (T) here reasoning process is more experiential and associative, involving pattern recognition and intuition, than it is logical reasoning, as in the teaching of law, or scientific reasoning.

Lynn, *supra* at 10-11 (citing Christensen with Hansen 1987, 25). (“In less institutionalized domains, such as administration, social work, planning and education, the question of what constitutes “essential knowledge” is far less clear; indeed, it may be difficult to rule out any but the most esoteric or specialized knowledge as relevant to practice. In such domains, “structuring” a well-defined body of knowledge is a less essential skill than identifying knowledge potentially relevant to resolving the problem.” *Id.*

IV. EMPOWERED PROCESS: SKILLED LEADERSHIP: DIFFUSION, PARTY CAPACITY & SPEAKING TRUTH TO POWER

Case Study Topics (In Order Presented)

Mediation’s Appropriateness

Good/Bad Faith

Empowered Party Response: Nonviolence

Restorative Justice

Vision of Dialogue

Paulo Friere

Students---Peacemaking in Middle East

Conflict Process Parameters (Ground Rules)

Preventing & Managing Aggression

Assertive Process Management

Diffusing/Deescalating: Stages & Steps

I-Statements

Party Capacity

Post-Traumatic Stress Disorder

Speaking Truth to Power

Persuasion

BATNA

Case Study #15:

Background: A good friend, social worker and lawyer, recently investigated domestic and child abuse charges. After concluding both parents should remain in contact with their children, she asks if you would mediate the details.

APPLICATION

- **Do you know what behavior, marriage and parent, would be judged illegal and abusive in a court of law?**
- **Imagine yourself as a societal agent, responsible for investigating and monitoring violence in marriage and parenting. What behaviors, once proved, do you find wrong, without hesitation?**
- **How do you propose addressing? Analyze the possible consequences of adopting your proposal(s). Include benefits, risks and costs.**
- **Note: Readers unfamiliar with the fields of social welfare and criminal law, specifically addressing domestic and child abuse, may be somewhat confused when reading this case, but there is no need to understand the technicalities and context of this case study to complete its activities. All essential information is provided.**
- **Readers interested in learning more about these areas and doing their own research may wish to start creating a list of: 1) questions of interest, 2) friends and acquaintances who know more about these fields, and 3) other research resources.**

Background: The couple was first investigated during their divorce a few years ago. The mother requested a second investigation recently.

APPLICATION

- **Imagine yourself a parent being investigated for alleged child abuse. What are your fears and concerns? How might you respond? Once again, list some of the benefits, risks and costs of your proposed response.**

Background: The divorce court awarded shared legal custody; the parents must make important decisions about their children together. They have gone in and out of court many times, and still cannot agree on details like what their children should eat.

Questions

- **What are some of the possible benefits, risks and costs of requiring these parents to make important decisions about their children together?**

Background: You agree to meet the parents to assess mediation's appropriateness.

Questions

- **What questions would you like to ask?**

Interview #1: The father brings you a file full of papers from the couple's divorce. He has had at least three different lawyers, spending thousands.

He appears eager to proceed with mediation. You talk almost two hours.

Conversation quickly turns to the child abuse charges -- first filed against him at the beginning of the couple's divorce. Charges were dismissed due to lack of proof, with suspected fabrication.

The father says she is confused and concerned about his ex-wife's perceptions and actions. He will do whatever she requests in return for her participation in mediation. He sees no other options at this point. He is frustrated with past court experience ("doesn't seem to help"), and angry with its incredible cost. Most importantly, he wants to see his children. In the beginning of divorce proceedings, the mother disappeared with the couple's children for several months. The father dreads this happening again.

Questions

- **How does a party empower himself in the face of discrediting tactics like the possible false allegations here?**
- **What if tactics "use" popular group stereotypes and fears about serious issues like domestic and child abuse to intimidate and manipulate?**

Note: The damage of false allegations for victims desperately needing others to believe their true reports of abuse and violence is criminal.

- **How do you judge honesty, credibility and trustworthiness? Consider a time when you were deceived or manipulated. Based on your experience, identify ways you try to detect dishonesty:**
- **List specific mediator challenges with assessing good/bad faith:**

CONFLICT PROCESS

A party, facing false allegations and rumours, needs to proceed with the potential for distortion in mind. (See, e.g. conflict theory and research presented earlier regarding aggressive "win-lose" dynamics.) It is recommended that the party be conscious of his need to disprove misperceptions. He is well-advised not to do anything that might be seen or used as evidence against him.

Imagine the accusing party aggressively acting in a way that could provoke "self-fulfilling prophecy." The accused is likely to be sorely "tempted" to respond in a reciprocal way. Self-empowerment becomes an endurance test. Unfortunately, it is all too common in child custody disputes, with traumatized children "in the middle."

Alliances with those who know the accused party intimately, and can and will speak on his behalf, may be critical. Alliances with someone who is trusted and has strong credibility with those hearing falsehoods may make the necessary difference, particularly when powerful decision makers are involved.

Note: Once again, corrupt alliances ("loyalty") that hide true wrong to protect "buddies," is classic criminal collusion and discredits all.

APPLICATION

- **What motivates false gossip?**
- **Identify one or more ways false gossip might relate to the destructive intergroup dynamics introduced in case study #2.**
- **Brainstorm options for responding to gossip. Imagine yourself responding with integrity. What are some likely consequences?**
- **Is there someone (group) in your life whose gossip, falsehoods or exaggerations you are more willing to tolerate, even excuse or encourage? Attempt to explain your reasons to someone who does not share your loyalty and perspective.**

Ethical Perspective

One cannot assume a culture of peace or integrity when doing conflict resolution. The reality is more likely a culture of violence, corruption and endemic deceit (“lie built upon lie.”)

It can be quite disheartening to study the myriad of ways societies tolerate, and even promote, violence, racism, sexism and materialism, at others’ expense. Fortunately, we do not all simply respond in kind, escalating inevitable destruction. Some attempt to model and lead more inspiring and productive alternatives. Utopian and non-violent collectives like the Catholic Worker exemplify what is possible.

All these issues — sexual politics, race and cultural background — relate to the issue of power; what is perceived as power, what is perceived as weakness, and who is perceived as being powerful. Over the years, as part of the fruit of committed experience, Workers have learned that power resides elsewhere than in the barrel of a gun or a steroid-inflated bicep. As Workers speak of their pilgrimage into nonviolence, one senses that the power that is constructive, that builds up rather than tears down, lives primarily in the human heart, in the will, and in a creative, imaginatively engaged mind.

Patrick McCoy, *A Revolution of the Heart: Essays on the Catholic Worker* (1988).

Those of us living in cultures of violence and corruption are challenged to persist in exercising our freedom: acknowledging, choosing and persistently practicing principled alternatives. Democratic conflict resolution must co-exist within competitive and destructive systems, for what is our alternative? Fortunately, we can see, in some circumstances, the widening practice of democratic conflict resolution strengthens collective will and capacity.

In a conflict resolution class with young professionals from throughout the Balkans, I was asked how victims of war can heal from shame. I ask the same for perpetrators of violence. How can they acknowledge and feel their shame?.

What are our alternatives to never-ending reciprocal retaliation against perceived and actual wrongs? If collective and continuous trauma is the central organizing principle for cultures of violence, cultures of peace will not have a chance unless we find the ways and will to break the cycle of violence and heal.

CONFLICT RESOLUTION PROCESS

Restorative justice is a movement within the field of conflict resolution that considers these questions and needs, asking who has been harmed and who is responsible for repairing the harm. Offenders are held accountable. Laurie Parker, *Restorative Justice: Accountability Conferencing* (presented at the National Conference on Peacemaking and Conflict Resolution, June 2001; quoting Howard Zehr 1990.) Those willing to admit their responsibility begin the process of restorative justice by requesting the opportunity to make amends.

Victims have the power to choose whether they are comfortable personally hearing their offender’s admission and mediating amends. If they wish to attempt victim-offender reconciliation through face-to-face meeting, the ideal process empowers the victim, holds the offender accountable, and facilitates deep healing. See, e.g. Mark S. Umbreit, *Victim Offender Training Manual* (Center for Restorative Justice & Mediation, School of Social Work, University of Minnesota 1996.)

APPLICATION

- **What do you imagine as possible benefits, risks and costs of restorative justice as introduced above?**

Background: A few days later you learn that another friend, and family attorney, is sending her representation of the mother. The mother has also had several different attorneys. Your friend finds her "very difficult." She cautions you against accepting this case.

Questions

➤ **What ethical issues arise?**

Interview #2: The mother's main concern is her ex-husband's temper. She informs you that she may need to call the police if he becomes aggressive. She has many questions about mediation, and asks you to recommend some books. You do.

The mother wants your reassurance that if she feels unsafe at any point, she will be able to leave, call and safely wait for the police. With this reassurance, she is interested in trying mediation.

Questions

➤ **What questions do you have? Concerns?**

Ethical Perspective

Several ethical perspectives address circumstances where "the oppressed" wish to engage in dialogue with their "oppressor." The dialogical, existential, humanist and transformational political perspectives are examples. Some argue that the less powerful should have the right to relate directly with those with power, particularly those with "power over" them. Many protests aim for a seat at the negotiation table.

I recently worked with a lovely man from Sri Lanka who works closely with his country's conflicts. After describing his experience and challenges in great detail, he is last request to me was for advice about how to be included in negotiations.

Critical and liberating dialogue... must be carried on with the oppressed at whatever the stage of their struggle for liberation. The content of the dialogue can and should vary in accordance with historical conditions and the level at which the oppressed perceive reality... Attempting to liberate the oppressed without their reflective participation in the act of liberation is to treat them as objects which must be saved from a burning building; it is to lead them into populist pitfall and transform them into masses which can be manipulated. At all stages of their liberation, the oppressed must see themselves as... engaged in the ontological and historical vocation of becoming more fully human... To achieve this praxis, however, it is necessary to trust in the oppressed and in their ability to reason. Whoever lacks this trust will fail to initiate (or abandon) dialogue, reflection and communication.. Paulo Friere, *supra*.

Existential humanists do not necessarily focus on external change, but share Freire's strong faith in the human capacity to "creatively turn life's negative events into something positive or constructive." See, e.g. Victor Frankl, *Man's Search for Meaning* (3rd ed. 1984) (written after and about surviving Holocaust concentration camps.)

The transformational political perspective views empowerment of individuals as inherently "anti status quo." Through learning how to "take charge of their own destinies" in conflict resolution, individuals transform oppressive structures. Mediation, Citizen Empowerment & Transformational Politics (German philosopher Jurgen Habermas supports direct dialogue as a means of moral development. (Anyone "who wishes... to justify important valued decisions... cannot allow himself to be represented by someone else in ethical-existential discourse.") *But see* Durkheim, *supra*. ("We do not regard an act as completely moral except when we perform it freely without coercion of any sort.")

APPLICATION

➤ **Consider a time when an authority (e.g. parent, teacher, police officer) said you were "not old enough, educated enough, wise enough..." to act in your own best interests. For "your sake," they would act for you. Discuss several different circumstances; analyze pros and cons.**

Mediation Session #1: The parties start with creating their own "working" ground rules. One is that each person is free to request time-out and to end mediation if feeling unsafe.

APPLICATION

➤ **Imagine yourself as one of the parties. What ground rules/agreements would you want before proceeding?**

Mediation Session #1: The parties take turns sharing their parenting concerns. All are recorded in detail on a large board. Concerns fill the board. The session appears to go well.

At the end, the mother asks you to walk with her to the door and wait with her until her ride arrives. Once at the door, she says she fears for her safety.

CONFLICT RESOLUTION/MEDIATION PROCESS

Introductions and “ground rules” begin mediated conflict sessions. Ground rules exemplify principled rather than power-based conflict resolution.

Ground rules serve several purposes. One is emotional: to ensure that all parties to conflict feel safe and comfortable with mediation. Ground rules may be an option for balancing power when “the oppressed” and less powerful wish to dialogue, or sit at the table, with their “oppressor” --- the party with undeniably more power. Another possible purpose is establishing moral boundaries, e.g. to ensure good faith, and contractual boundaries providing legal recourse if breached.

Ground rules may be quite informal and merely spoken, or quite formal and described, detail by detail, in a signed contract or agreement to mediate. Cases involving lawyers representing parties, with current lawsuits or a strong risk of future litigation, are the most likely to be contractual. The signed document is drafted and reviewed by one or more lawyers and includes such good faith promises as confidentiality, and openness, honest disclosure of all relevant information.

Informal process agreements often center around the concept of mutual respect. Parties will ask not to be interrupted. Mediators may suggest such practical guidelines as “no put-downs” or personal attacks, and allowing one party to talk fully before another proceeds.

Disappointed party expectations and signs that parties are upset provide valuable guidance for ground rules. A wise mediator, with the opportunity to observe parties over time, will not cue a hat signal and precede escalation, and suggest specific ground rules to prevent. A mediator or facilitator of volatile dialogue may be able to ask parties about their “root” expectations and ask parties to describe concrete signs they show when becoming upset. Third parties can then assess specific ground rules needed.

Depending on circumstances, ground rules may include “no violence” parameters or boundaries. If violence is defined to include emotional and verbal attacks, a personal attack ground rule exemplifies a no-violence parameter. My conflict resolution classes regularly develop their own ground rules for encouraging honest, open discussion, and exploration of culture, or other potentially heated, controversial or sensitive topics. Here are some examples.

YES

“Treating others as you want to be treated.”

1. Give and show full undivided attention and interest;
2. Support and encourage with positive, empathetic response, especially if “stuck;”
Emphasize and reinforce positive and constructive, with:

Honest, genuine, fair or objective, and specific feedback;

Reframing criticism as suggestion for improvement,

Giving “two positives” for every suggestion,

Following suggestions with positive feedback,

Helping everyone find “voice;”

Recognizing that every time someone takes a risk, particularly when vulnerable, that person is accomplishing a goal;

3. Have fun, e.g. "laugh with; not at;"
4. Keep open mind about each other and ideas; actively get to know each other and appreciate differences;
5. Be considerate of feelings and respectful;
6. Speak up, ask questions, and discuss topics openly and freely; keep ideas flowing;
7. Identify shared challenges, discuss openly and work through; remember we learn from our own and each other's mistakes.

NO

1. Making fun of, belittling or embarrassing: laughing at, smirking, looking bored or tired; other rude gestures;
2. Being unconstructively negative; intensely or cruelly critical;
3. Pushing;
4. Having side conversations or interests, e.g. ruffling papers;
5. Prejudging or discriminating (on basis of race, gender, beliefs, looks.)

I recently asked a class studying peacemaking in the Middle East to describe what they need to engage in dialogue. Suspending judgment was mentioned so that all could speak candidly without fear of being labeled. Respect and open-mindedness for all, or inclusive, equal process, without domination or attack, would encourage voices seldom heard and testing out of thoughts without feared "eternal stigma." Passionate concern, including open expression of deep feelings, without screaming and shouting, was requested. A desire to listen to all for true, deeper perspective-taking, or "walking in the other's shoes," was stated.

Some would like the freedom to "just listen," others would appreciate sensitive support and diplomatic language for trust building, and wish to seek and discover what is shared in common. Mentioned most was the need for flexibility, or the willingness to change opinions with new understanding.

APPLICATION

➤ **What "ground rules" or agreements do you personally need to fully engage in dialogue with someone in conflict with you?**

Mediation Session #2: The parties prioritize their concerns, and begin exploring their most important issue(s) in depth. At one point, they start to argue. Emotions increase.

You (the mediator) request a time-out. Your request is immediately respected.

CONFLICT RESOLUTION/MEDIATION PROCESS

A mediator can revisit and renegotiate additional ground rules after observing the parties aggressively escalate. If parties have not broken the law or done serious damage at the peak of their escalation (so that proceeding or trying again is inappropriate), the post-escalation period is a "ripe" time to negotiate the most effective and necessary working guidelines --- one that concretely address party trained incapacities. All have just observed actual escalation in detail. Some parties will feel remorse.

Having some ground rules in place at the beginning of the conflict process is important for effectively managing aggressive or unproductive escalation. Once parties are "triggered," upset and beginning to escalate, they are not normally receptive to new information (surprise), may become more defensive and reactive if a mediator attempts to impose rules in an authoritarian way, and are usually needing to have their emotions and concerns deeply heard and validated before being ready to negotiate anything.

In the international survey of third party effectiveness mentioned earlier, participants to conflict resolution processes described strong skilled leadership as one of the top three most important variables (along with democratic process and a positive, humane environment.) In my conflict resolution classes at the University of California, Berkeley, typically and effective assertion of ground rules was the most popular way of evaluating strong skilled leadership (followed by neutrality.)

Once ground rules are set, a mediator needs to be prepared to enforce them. Unless parties experience the mediator taking the lead; ensuring that the process is safe, respectful and otherwise appropriate, they are unlikely to feel comfortable discussing their most sensitive concerns openly and honestly. In fact, mediator tolerance of unacceptable and inappropriate behavior can be a strong message to parties that the mediator is not concerned about party well-being or capable of necessary leadership.

Assertive process management can be a tough task to balance with the empathetic listening and other supportive, validating roles. Skilled joining and balancing of the two, however, is what deescalates. It is recommended that those wanting to learn how to effectively diffuse aggressive tensions, practice the following step-by-step process many times --- until they feel comfortable "in the fire" of conflict.

It is important that third parties learn to do the following without being seen as attacking, humiliating or engaging in a power struggle with the parties. Otherwise, intervention is likely to "backfire" --- escalate.

... Workers came to understand how the dynamic of nonviolence can halt the escalation inherent in violence. They learn that when they react to hostility with further hostility, fear or paternalism, the violence tends to increase. But when skill and time allow, a new dynamic can be introduced which is geared to the broader personhood of the hostile guest. This new dynamic must be rooted in a firmness edged with compassion; it requires mutual respect... Something had been learned about the elusive grace we call nonviolence. Such a delicate grace. A grace of immense sensitivity to the relational moment... the right moment to introduce the next creative step; the proper use of eye contact, the use of touch, body language, tone of voice, gentle humor, respect for personal space... behaving like neither victims nor executioners. McCoy, *supra*.

Preventing and Managing Aggression with Angry, Sensitive Conflict **(Balancing Supportive Connection With Strong Assertion)**

Special Note: Do not attempt any of the following unless feel safe and seen as sincere.

Key to support is heart felt connection. Here are some ways to create:

Stage 1: Steer clear power struggles.

- Don't compete.
- Save your perspectives sharing (need to be understood by upset person) for another time.
- Don't argue, criticize or discount.
- Show respect.*
- Be aware of body language.
- Ask for and consider feedback.

*Key to mutual respect is taking time to learn each other's expectations and agreeing to shared norms ("ground rules") before discussing conflict.

"I statements" are a popular recommendation during escalated, angry conflict. "You" statements can be easily heard as blaming or attacking; invite arguments since the speaker is not an authority about the other ("you.") In contrast, statements like "I feel...", "I need..." "I want..." are not directed at anyone else and cannot be refuted. The speaker is the expert regarding his own feelings, needs, opinions, and desires.

Stage 2: Strive to understand the angry person's perspective.

- Be interested;
- Show speaker desire to hear and understand;
- Aim to empty and open mind; suspend judgment;
- Listen with close, consistent attention;
- Ask questions that encourage speaker to talk freely and completely;

Respond positively;
Notice and use opportunities to agree, appreciate, support, and validate perspective;
Treat feelings as important — acknowledge;
Shows speaker you are listening: restate essential points accurately;
Don't be afraid to say you need more information;
Use body language to do all of above.

Stage 3: Concern

Ask what would help;
Be open to resolution;
Respond generously: do what you can;
Explore options;
Problems solve together as equals;
Be conscientious with follow-through.

“accentuate the positive”

Stage 4: Verbal or Psychological Attack

First Time: If feels appropriate (trust instincts), try stages 1, 2 & 3;
Recommended: Rules are clear and known (so there are no surprises during conflict);
Rules are mentioned by person perceiving breach;
If rules are disregarded again, concerned person suggests time away from conflict until able to reconnect without attack.
If rules are disregarded again, concerned person expresses desire to resolve conflict at another time, and takes responsibility for walking away and otherwise respecting self.
Expectations may need to be discussed and rules, or renegotiated. This is an important opportunity to understand each other and show respect.

Stage 5: Physical Attack

Plan ahead for security;
Assess risk and take seriously;
Seek assistance;
When in doubt, call experts.

“eliminate the negative”

CONFLICT RESOLUTION/MEDIATION PROCESS

A highly successful bully prevention program parallels the approach described above: “warmth, positive interest and involvement by adults” acting as positive role models and authorities, consistently applying “non-hostile, nonphysical negative consequences” when “firm limits to unacceptable behavior” are breached. History and Description of the Bullying Prevention Program, <http://www.Colorado.EDU/cspv/blueprints/model/chapt/Bully.Exec.htm>. It reduced bullying behavior by typically 50 percent or more in a variety of cultures, including Bergen, Norway, the southeastern United States, Sheffield England, and the state of Schleswig-Holstein, Germany.

Mediation Session #2 (continued): The parties appear to reach agreement regarding the first issue. You promise to type and fax the details to each party for review within the next few days (which you do. The father calls soon after, pleased with the written agreement and eager to sign. You do not hear from the mother.)

Mediation Session #3: You begin with the document prepared after the last meeting. You ask the mother for feedback. She disagrees with most of it.

The father reacts strongly, accusing the mother of stalling and attempting to block agreement. You request a time-out and caucus (private conversation) with each party.

You meet with the mother first. You begin by saying that the written document reflects your understanding and recollection of what the mother proposed and accepted in the last mediation session. You express disappointment and concern that she did not return your

phone calls regarding the document and give you feedback earlier. You are confused about her strong disagreement today. She claims not to remember agreeing to any of this, and apologizes for not returning calls.

You meet with the father, acknowledge his frustration and desire for agreement, but remind him that this is a voluntary process. No one can be pressured into agreement. His ex-wife is participating because she is willing to do so.

You leave mediation puzzled by the mother's statement that she does not remember agreeing to the details drafted. In past mediations, you are often complimented on your ability to accurately paraphrase and summarize the most important details. You question the appropriateness of proceeding until you understand more. You decide to schedule another meeting with the mother. (You inform the father of this meeting.)

Meeting with Mother: Once again you express confusion regarding the mother's memory lack. She informs you that several years ago she was in a serious car accident, suffered brain injury and may still have lingering effects. She does not quickly understand auditory (spoken/verbal) communications, need time to process information, and, at best, visual records to review and study.

Ethical Perspective

An ethical mediation process requires that all parties have sufficient capacity to negotiate for themselves or self-determine. An important task for mediators is assessing party capacity and whether the time is right ("ripe") for mediation.

Phone Call From Mother: Soon after meeting, the mother calls and asks for another meeting. She wants to bring her domestic abuse counselor. You inform the father of her request. He approves of "anything that promotes moving forward and addresses his most important parenting concerns."

First Meeting With Counselor and Mother: The counselor and mother inform you that the mother is no longer comfortable in face-to-face meetings with her ex-husband, but is willing to proceed in "shuttle negotiations" if her counselor is with her during all meetings. The counselor explains that domestic abuse victims are often intimidated and even paralyzed in the presence of their abusers, e.g., experiencing "blank mind."

You agree to review their request with the father and are willing to change the structure if he agrees. (He does. You propose reviewing the drafted details, prepared and reviewed in last mediation session, once again with the mother, in a meeting with her counselor. All agree.)

Conflict Theory

The symptoms described above are common with post-traumatic stress disorder (found in veterans of war; survivors of sexual, emotional and physical abuse.) Similar symptoms may be present with clients who have experienced trauma from loss.

Dr. Kubler-Ross found and named these stages with her patients dying of terminal illness: 1) shock and denial, 2) bargaining, 3) anger, 4) grief, and 5) acceptance. Kubler-Ross's research has since guided research and theories regarding other major traumas such as loss from divorce and sudden ending of employment.

Reflection

Asking how survivors "survive," and even thrive, after a major loss and trauma, is an important question with conflict work. In addition, when conflict involves or results from a major loss and trauma, a party's capacity, or readiness to negotiate, is an essential first question.

Community, or grassroots, conflict work involves many parties who are both oppressed and survivors. How do mediators, as well as advocates, activists, and community workers, effectively approach party capacity-building when deep trauma exists?

I would like to share some thoughts based on my own work, with survivors in poor communities, survivors of divorce and domestic abuse, but particularly therapeutic work I was asked to do with young survivors of major childhood trauma: a ten-year-old whose mother had died and whose father struggled with mental illness attributed to combat, several survivors of sexual, physical and emotional abuse, and survivors of the streets and gangs. What follows is what I saw help them.

Regular Empathetic Listening as They Spoke Their Truth

Daily One-on-One The listeners were not trained therapists or professionals. They had not even received much training in "how to listen." But they were available, in daily regular time periods. From what I saw, they listened to the best of their ability and showed they cared.

Peer Support & Community This is probably no surprise to anyone who has been part of a community that supports each other in their daily struggles. This is what these young people created with each other, with adult leadership and guidance to ensure it was safe and positive. In addition to talking to the adults described above, daily they listened to and supported each other through tears, anger ... everything they wanted to express. Laughter about the worst was sometimes the most healing.

Self-Exploration

Self-inquiry and clarity are key to “speaking truth to power.”

- **Consider what is important to you; perhaps what troubles and challenges. Can you describe its essence? In ways that resonate? Satisfy?**
- **What most troubles? Is most important, or essential, for you? What engages or moves you passionately?**

Cultural Exploration

An older woman asked a young American woman approaching her thirtieth birthday “What do you need? Want?” Her response: “I didn’t remember anyone asking me these questions before. When I began asking myself, I received no answer --- only a quiet void I observed. I knew I must continue asking. I began to do so several times a day, as a discipline for myself.”

- **In five year intervals, create a timeline showing the major events of your life. Which were most important? Explain.**

Strong, Safe & Supportive Embrace & Reassurance When Grieving, Especially Re-Living Horrors

The trauma experienced by survivors often rips their psyches with grief and terror when relived. Trustworthy physical and emotional comfort can facilitate deep healing, and, at least, provide necessary reassurance. Survivors literally confirm their survival as they reface and know they have come through the worst.

Caring, Compassionate Community Forums Groups of older women would invite these young people to speak to them about their lives. Those who wanted to speak publicly stood up in front of these groups and told them the truth of their experience. They received only warmth and concern in return, and reported feeling like they and their experience mattered.

Regular & Realistic (“Doable”) Problem -Solving & Planning Healing from a major trauma impacts every aspect of one’s existence, inner and outer. Some days most survivors are ready to give up their efforts in the face of pain and challenge. Other days they need to “simply” rest and grieve. Most days these young people wanted to see some progress, any progress. To that end, adults helped them identify concrete priorities, explore options, evaluate and create weekly goals, with daily actions. Failure and neglect happened more often than not, and was accepted as excellent feedback to evaluate whether the plan truly reflected personal priorities and realistic “next steps.”

Conscientious Daily Visual Review and Validation of Positive Effort All required with these young people was the opportunity to review their personal charts (visual progress) every evening with an adult who was important to them!

Creative Exploration & Expression As those who have experienced major loss and trauma know, often the deepest experience cannot be adequately expressed “in ordinary” ways. These young people expressed and grieved their loss with music (played for others as well), poetry, drama... and rituals they designed themselves.

The above discussion is not an attempt to present a formula for hard, complex circumstances. I am not even interested in promoting the above process. Many of these young survivors experienced some critically needed healing and improved their ability to participate in daily life with the experiences described, but their lives were too uncertain and filled with risk to predict their futures. I am presenting some of my experience in the hope that it will stimulate further discussion and sharing of what truly and deeply helps those who are in the midst of and fresh from life-changing loss, tragedy and trauma.
See Judith Hermann, *Trauma & Recovery* (); Beverly Raphael, *The Anatomy of Bereavement* ().

Ethical Perspective

I have often been inspired with how survivors of horrific trauma and tragedy powerfully make critical difference and contribute to prevent and respond to suffering. Several years ago I was asked to represent the mother of an eight-year-old boy named Chris. She lost custody and most contact with her son after her alcoholic attorney signed custody papers without informing her. I do not know the historical details. What matters most is what happened next. Mom investigated law firms. Even though mine was one of the most expensive, it was highly recommended. She borrowed the thousands needed for legal expenses from her employer and proceeded with

after a thorough investigation and plan to return to the court that originally decided custody quite some time ago. My senior family law colleagues labeled the case "a loser."

By your day in court, Chris was nine. His school had recently diagnosed him with "attention deficit disorder." Yet Chris insisted on joining us, wanting to speak to the judge himself. We faced the judge and the father's attorney, a local politician who knew the judge well. My strategy was to present the results of our investigation with the sole goal of persuading the judge to speak to Chris, which he did. I don't know what was said. Chris and the judge met alone. But I will never forget the moment when the judge returned to announce Chris was going home with his mom. Chris at nine years old "spoke truth to power" with his determination and courage to speak to the judge; Chris' mom "spoke truth to power" when she did "whatever it took" for herself and her son.

Conflict Research

In the international survey of effective conflict processes mentioned earlier, strong skilled leadership was often described as charismatic, influential and persuasive, particularly throughout the Balkans. "The skills to change someone's opinion" are an important part of party capacity in conflict resolution.

CONFLICT PROCESS: WHAT PERSUADES?

What follows is student feedback.

What persuades:

- Rapport and trust;
- Strong perspective - taking; understand your audience well;
- Commonalities: recognize what you share with those attempting to persuade;
- Genuine concern: present information relevant to audience's needs;
- "Custom-designed" presentation that interests & engages;
- Considerate wording/framing;
- Enough space and time.

What does not persuade:

Personal attack or blame;

Not anticipating the other's perspective;

Attempting domination.

Ethical Perspective

Some of my conflict resolution students ask "What's the point?" when considering dialogue in the Middle East or other areas of difficult, tragic conflict. There are no guarantees of progress, but when I think of the real individuals with whom I work, whose daily lives are impacted, "the point" is their lives; the lives of their families. The attempt must be made on their behalf, even if seemingly impossible. As expressed by one of my students from Cyprus --- she has "a desperate passion" to help her family and community. To many, her conflict is international, but for her, domestic --- her family's daily life.

This morning I received an e-mail. Bomb had gone off close to the homes of two dear peace colleagues in Macedonia the night before. They courageously stand and speak for human rights and cross-ethnic dialogue in the midst of possible war. My heart aches for their future. Their efforts fuel my determination.

Here are some other living examples of speaking truth to power. Maureen Piszczor of Oak Park, Illinois, encouraged friends to support gun control after her husband was shot and murdered. As a tribute to his life, friends decided they wanted their community to pass an ordinance banning possession of handguns. They researched the issue, formed a committee, and asked other community residents to join them. Next they did a petition drive to educate the whole community. Their efforts led to a community vote. When the votes were recounted, the ordinance banning possession of handguns passed by nearly 2000 votes.

Linda Warsaw started Kids Against Crime when she was 12 years old. After her house was burglarized, she and her mom decided to do something positive with their fear and anger. They volunteered to help their local district attorney in a special program for victims of crime.

While volunteering, Linda learned about child abuse. She decided to start an organization run by young people to help stop crimes against young people. She and her friends organized a toll-free hotline, educational skits, workshops, and fingerprinting for young people.

Questions

- What difference would you like to make?
- What contribution would be most meaningful to you?

Am Chorn was born in Cambodia. When he was eight years old, an invading army forced him to leave his home. Soon after, he lost contact with his family. When he was 12, the soldiers who kept him prisoner forced him to fight for them. After a year, Am escaped and lived in the jungle for many months. Finally he came to a refugee camp.

When Am was 16, he spoke about his experience at a peace rally in New York City. Afterward, a young woman asked him to help her start a group called Children of War. Children and young people, from Cambodia and Vietnam, Iraq and Iran, Palestine and Israel, Northern Ireland and other countries torn by war, have made several tours of many countries to tell other children and young people about war.

Because they have been nominated for the Nobel Peace Prize in each of the past two years. (Because) as organizers of the Children's Mandate for Peace in Colombia, they have turned a symbolic referendum into a national movement when 2.7 million young Colombians went to the polls to support human rights for minors.... due in large part to their efforts, their peers are now closer to receiving a good education and legal protection from both harmful employment and sexual exploitation. (Because) they had the foresight to base their mission on a draft of the United Nations Convention on the Rights of the Child, which has now been ratified by every country in the world - except Somalia... and, pathetically, the United States... BECAUSE they continue to speak out for peace despite having received death threats from those in a position to benefit from their nation's four-decade civil war.... (Because) as their 18-year-old spokesperson, Farliz Calle, says "Children are not the future of our country - we're the present. (emphasis added) *Nomination to Hall of Fame*, Vanity Fair (March 2000).

APPLICATION

- Do you know the expression "pick your battles"? Consider: when are you willing to take a stand, or even, what will you "fight" for --- not the dramatic fireworks of a win-lose power struggle, which can actually be more an act of powerlessness and futility, but instead, to "speak truth to power" --- or do whatever it takes to create important change? What are your convictions? Who, what.... matters most to you?
- You are an agent of ethical and cooperative conflict resolution. You concretely impact the conflict process by your consciousness, choices and behavior. You are going to challenge a responsive balance between what may appear to be competing priorities. For example, how do you simultaneously encourage speaking truth to power and democratic dialogue? Personally, how do you express what is most important for you and maintain, even build, rapport and relationship with those listening so they are willing to do the same?

Second Meeting With Counselor and Mother: Once again, you review the draft you prepared after the second mediation session. The mother agrees with most of it, after adding minor changes. The counselor is silent through most of the meeting, and appears to closely observe the process. Everyone seems happy at the end of the meeting.

Meeting With Father: The father reviews the changes made by the mother, protests a few more than others, but doesn't consider any serious enough to disagree. He signs the agreement.

Third Meeting With Mother and Counselor: You give the mother a copy of the agreement for her signature and a copy to her counselor for review. The mother reads the agreement and refuses to sign. The counselor looks puzzled; then says that the agreement appears to reflect exactly what the mother requested in the last meeting. She does not understand and is concerned with the refusal to sign. The mother gets upset and walks out of the room.

Conflict Theory

Sometimes a question of mediation being attempted with these case study circumstances. If alleged domestic abuse were substantiated or signs of abusive dynamics existed, despite court findings, mediation would be hotly protested for serious ethical reasons not explored here.

Assuming no actual abuse, some still wonder at the rationale for attempting mediation with the challenges described. The concept used to help parties strengthen their negotiation strategies, “Best Alternative to a Negotiated Agreement,” (“BATNA”) sheds light on party motivation and possible rationale for attempting mediation.

APPLICATION

- **There is some historical data, in this case study, useful for exploring best alternatives to proceeding with mediation. How would you describe these parties’ alternatives?**

Mother

Father

- **Can you imagine a way either party might empower themselves by creating or strengthening alternatives to mediation? What obstacles need to be addressed?**
- **Discuss how the parties’ alternatives may motivate their interest and willingness to try mediation.**

Conflict Theory

Upon reflection, one quickly realizes that determining “best alternatives” is often more of an art than a science. In only certain cases do parties have enough information to actually determine actual alternatives with any sound, objective basis. For example, in specialized legal areas, lawyers who have practiced in the party’s court jurisdiction have strong historical basis for presenting or at least predicting a best alternative. In assessing property values, parties consult with several seasoned market experts and compare their valuation to determine best alternatives.

Ethical Perspective

The tragedy of some conflict is that mediation is inappropriate based on party incapacity, abusive, bad faith dynamics, and other clear-cut factors. Yet parties have no immediate best alternative to a negotiated or mediated agreement. Without mediation, negotiation or other intervention and assistance, they are left to address appalling circumstances alone, with heart-rending daily consequences to themselves and their children.

“Sweat-shops” illuminate one possible example of “no-win” protest. From some employees’ perspective, it is not enough for outsiders to criticize and protest. Critics who truly care about the real world consequences that these parties suffer must act to create actual “best alternatives.” Otherwise, we, by our neglect and without critique, may condemn the participant to “no alternatives.”

For the same reason, it is not enough for us to work only for some idealistic long-term future. We must also work for the improvement of immediate circumstances, with small steps of progress deemed worthy and important when they benefit these parties in real ways today.

APPLICATION

I was approached recently by a man who has devoted himself to helping young people attempt to bridge generations of ethnic hatred and counter the war that has ravaged their homes. He asked me to “please tell him how to promote a culture of peace” and went on to ask “what are the concrete indicators of a culture of peace?”

- I would like to ask your help with the answers.

Postscript: The mother ended mediation shortly after events described; talk was that she planned to return to court.

Proposed Third Party Conflict Intervenor Competencies

Professional Skills and Knowledge

Discloses “any biases or strong views relating to the issues to be mediated” AFM, II -D-1, and “any circumstance to the participants that might cause a conflict of interest.” AFM, IV -E.

Information Gathering Skills and Knowledge

Gathers requisite background information to adequately and effectively diagnose and structure (if possible) appropriateness of proceeding with mediation, e.g., history of violence involving parties and party capacity. Ethics Research, CCMMO, *supra*.

Interaction & Conflict Management Knowledge & Skills

Strongly leads quality collaborative process, e.g., shared power and adequate participation; two-way communication. *See* SPIDR Qualifications, Model Standards, Maryland, CCMMO, *supra*.

Effectively manages special problems that threaten process, e.g., diffusing and directing escalating anger and aggression so that a safe environment is maintained, and protection of the parties is balanced with the value of full emotional expression (requiring negotiation and effective assertion of process parameters, i.e., “ground rules,” that require good faith commitment to mutual respect). *See* SPIDR Qualifications, Maryland, California Training, *supra*.

Communication Skills & Knowledge

Effectively (clearly, accurately and comprehensively) summarizes parties’ process to parties’ satisfaction, at regular intervals throughout mediation process. *See* Maryland, *supra*.

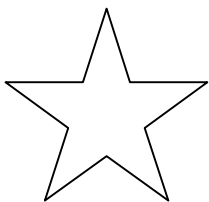
Problem-Solving Skills & Knowledge

Eliciting and comprehensively identifying important issues and sub-issues underlying conflict, including the hidden and less obvious, and substantive, psychological and procedural. SPIDR Qualifications, Maryland, AFM, *supra*.

Collaborative framing of issues. SPIDR Qualifications, *See* California Training.

Reformulating issues in ways that allow new orientation to solutions to emerge.

ROLE-PLAY SIMULATION



Cast of Characters

- 1. Father
- 2. Mother
- 3. Domestic Abuse Counselor

Possible:
Children
One or More Attorneys