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Bringing Peace into the Room

The Personal Qualities of the Mediator and Their Impact on the Mediation

Daniel Bowling and David A. Hoffman

Empirical studies of the mediation process consistently show high rates of settlement, as well as high levels of participant satisfaction (for an example, see McEwen and Maiman, 1981). These favorable results seem to occur regardless of mediation styles or the philosophical orientation of the individual mediator (evaluative versus facilitative, transformative versus problem solving). Indeed, the history of mediation as well as our own experience show that mediation sometimes works even when the mediator is untrained.[1] Is there some aspect of the mediation process—wholly apart from technique or theory—that explains these results?

Some might say that mediation works because it creates a safe forum for airing grievances and venting emotion (that is, it gives people their "day in court"), and this can be done even with an unskilled mediator. Others might point to the use of active listening and reframing—skills that many people have, whether or not they have had any formal mediation training. Still others may focus on the use of caucusing and shuttle diplomacy—again, techniques that do not necessarily require specialized training.

We believe all of these techniques are important. We also believe that mediation training is vitally important as a means of enhancing our ability to do those things that for some people may come naturally but for most of us require training and practice.

However, there is a dimension to the practice of mediation that has received insufficient attention: the combination of psychological, intellectual, and spiritual qualities that make a person who he or she is. We believe that those personal qualities have a direct impact on the mediation process and the outcome of the mediation. Indeed, this impact may be one of the most potent sources of the effectiveness of mediation.

We do not profess to know precisely how this happens or why it happens, although this chapter does suggest a framework for examining these questions. Because the ideas we present are not based on empirical studies or controlled experiments, we cannot prove their validity. They have evolved from reflection on our own experience as mediators and observation of the work of other mediators. We hope these ideas stimulate further inquiry.

Bringing Peace into the Room

The observation that led us to write this chapter can be simply stated and may even seem self-evident: as mediators, we have noticed that, when we are feeling at peace with ourselves and the world around us, we are better able to bring peace into the room. Moreover, doing so, in our experience, has a significant impact on the mediation process. What may be more complex and difficult to explain is how we, as mediators, can maintain a sense of peacefulness while working with people who are deeply enmeshed in seemingly intractable conflict. Often the disputes that we deal with in mediation trigger feelings in us about conflicts in our own lives. However, we believe that successful mediators have an ability to transcend those conflicts, or perhaps to use the insight derived from them, to help the parties in the mediation reach a genuine resolution of the dispute that brought them there. This ability arises, in our view, not so much from a particular set of words or behaviors but instead from an array of personal qualities of the mediator that create an atmosphere conducive to resolution.

In an effort to make sense of these observations, we have found very useful and pertinent analogies from research in the physical and social sciences, and in particular the field of psychology. Research in these fields is useful not so much because it furnishes a definitive answer to the question of how personal characteristics influence the mediation process but because it offers what we believe are useful metaphors for the processes we observe in mediation, and useful frameworks for thinking about the interactions of mediator and client.[2] Some of the scientific theories we describe here are considered controversial; others are well established. We are not seeking to prove, nor do we vouch for, the validity of this scientific research. Instead, we look to that research, as part of an exercise in reflective practice (see Lang, 1998), to see if it affords useful insight into the mediation experience and thus a deeper understanding of the qualities that will make us better mediators.

Three "Stages" of Development

Our starting point is to reflect on how we ourselves developed as mediators. For us, and for many of our fellow mediators, the process seems to involve three major "stages." Although we describe these aspects of our development sequentially, for some mediators they may occur in a different order, overlap, or occur to some degree simultaneously.[3]

First, as beginning mediators, we studied technique. We learned, among other things, active listening, reframing, focusing on interests, prioritizing issues, and helping the parties generate options. We learned to demonstrate empathy as well as impartiality; how to diagnose settlement barriers; and how, with any luck, to bring a case to closure. We looked for opportunities to practice these skills. A period of apprenticeship ensued, involving, for some of us, co-mediation with more experienced colleagues, observation of other mediators, and opportunities for debriefing and peer supervision.

The second stage of our development involved working toward a deeper understanding of how and why mediation works. In seeking an intellectual grasp of the mediation process, we hoped to find the tools with which to assess the effectiveness of various techniques; identify appropriate professional and ethical boundaries; and better understand what we were doing, why we were doing it, and the meaning of the process for our clients. These intellectual inquiries, encompassing both empirical and theoretical research and normative discussions of mediation practice, increased our effectiveness as mediators and enhanced the personal satisfaction we derived from this work.

The third stage of our growth as mediators is the focus of this chapter, and we consider it to be the most challenging frontier of development. For us, the third aspect begins with the mediator's growing awareness of how his or her personal qualities influence (for better or worse) the mediation process. It is at this stage that we begin to focus on, and take responsibility for, our own personal development as mediators. It is about *being* a mediator, rather than simply *doing* certain prescribed steps dictated by a particular mediation school or theory. Mediator David Matz recently wrote, in a paper titled "The Hope of Mediation": "In addition to what a mediator does, there is the matter of what a mediator is. Spirit emanates from being, just as articulately as it does from doing. More specifically, it is the mediator's being, as experienced by the parties, that sends the message" (Matz, 1999, p. 17).[4] Our conception of this third task is developmental; it is based on the premise that gaining mastery is an ongoing process.

An example of the differences among these stages of development can be seen by looking at a particular feature of the mediation process—for example, reframing. In skills training (first stage), mediators are taught how to restate and reframe the parties' accounts in a way that helps them feel heard and understood. Further reading and study (second stage) might demonstrate the

reasons reframing is an effective technique. At the level of personal development (third stage), the mediator develops the ability to reach a deeper level of personal connection with the parties, so that the reframing resonates with authenticity.

Very little has been written about this third stage in the process of becoming a mediator, although we believe that it is a vital aspect of a mediator's development. Likewise, little is known about the personal qualities of mediators and how they affect the mediation process. More is known about what makes people effective psychotherapists and lawyers (see, for example, Kottler, 1991; and Ryan, 1996).

Personal Qualities of the Mediator

More than a decade ago, mediators William E. Simkin and Nicholas A. Fidandis (1986) catalogued what they believed to be the necessary qualities for an effective mediator. We assume, for purposes of this discussion, that these qualities, and the others discussed in this chapter, are not entirely innate and can be developed. Simkin and Fidandis included in their list, which was no doubt partly tongue-in-cheek:

- The patience of Job
- The sincerity and bulldog characteristics of the English
- The wit of the Irish
- The physical endurance of a marathon runner
- The broken-field dodging abilities of a halfback
- The guile of Machiavelli
- The personality-probing skills of a good psychiatrist

- The hide of a rhinoceros
- The wisdom of Solomon

Another writer (Boulie, 1996) suggested, in a more serious vein, that successful mediators are empathetic, nonjudgmental, patient, persuasive, optimistic, persistent, trustworthy, intelligent, creative, and flexible, and that they have a good sense of humor and common sense.

Such catalogues of qualities—which are anecdotal, not scientific—help us identify some of the characteristics that we may want to foster in ourselves and look for in other mediators. However, we believe there is some deeper and more fundamental quality that the most effective mediators have: a quality that may include such attributes as patience, wisdom, or wit but that involves other attributes that are not in these lists. As we try to identify that quality, we focus on both the subtle influences of the mediator (those that may operate beneath the level of conscious awareness), and those where the mediator's influence is readily apparent.

Placebo Effect

As a starting point, we note that the success of mediation is not always the result of the mediator's personality or the skill with which he or she practices mediation. Some disputes are resolved even if the mediator is not present (or in spite of the mediator's presence, if he or she is not particularly skillful) simply because the parties to the dispute have sat down at the table, figuratively or literally, to discuss the matter. In the legal arena, the mere process of getting two lawyers to open their files on a case simultaneously and focus on them often produces a settlement.[5] A certain number of such settlements occurs whenever a court-connected event (such as a motion hearing or a status conference) brings the parties and counsel together. In cases of this kind, mediation is simply an event

that brings the parties together for a discussion that, even without the mediator, might resolve the case because the circumstances are ripe for settlement.

The Mediator's Interventions

The most direct and obvious impact that the mediator has on the mediation process comes from the techniques he or she uses to influence the course of negotiations. These interventions, based on the mediator's assessment of the obstacles to settlement, might involve giving the parties an opportunity to vent emotional reactions to the dispute, encouraging the parties to focus on interests rather than positions, or helping the parties generate options for settlement.

These basic techniques, and others, are widely used by mediators, but with varying results. Some of the variation is certainly attributable to differences in the cases themselves. Disputes vary, and the parties themselves display an infinite variety of personal characteristics, which may foster or impede settlement. Likewise, however, the personal qualities of the mediator influence the effectiveness of his or her interventions.

The "Hawthorne Effect"

A useful analogy for the process we are describing comes from the social sciences, in a phenomenon known as the "Hawthorne effect," a term used to describe the changes people make in their behavior when they realize they are being observed. This phenomenon was recognized by sociologists who conducted an experiment in the 1920s and 1930s at Western Electric's Hawthorne plant on the outskirts of Chicago (see Gillespie, 1991). The researchers wanted to know whether increasing the illumination of the factory would increase the workers' productivity. After determining the benchmarks of worker performance, the researchers turned up the lights and found that productivity increased. To confirm these

results, they then reduced the level of illumination below the original level and found, to their surprise, that productivity was higher than the benchmark levels. They concluded that it was their presence, not the changes in the factory's lighting, that had caused the change in worker productivity.

This insight parallels physicist Werner Heisenberg's discovery in the 1920s of the "uncertainty principle": that the observation of particles influences their behavior. The application of this principle to mediation is clear. If factory workers (or indeed subatomic particles) behave differently when observed, how much more so individuals in conflict who have sought out the assistance of a mediator?

Some mediators, however, have observed what might be described as a "negative Hawthorne effect": parties who seem to negotiate *less* productively if a third party is present. One explanation for this phenomenon is that the parties may have other goals and other agendas, apart from settling the issues that ostensibly brought them to the mediation, which they feel safe in pursuing only when a third party is present. Another explanation is that what may appear to be a negative Hawthorne effect could, in fact, be positive. For example, in some cases explosive personal issues (such as the emotional distress caused by an abrupt termination of employment or the discovery of infidelity in a marriage) cannot be discussed productively without a third party present, and the seemingly unproductive discussions that take place in the mediator's presence are nevertheless more productive than they would be without the mediator. Moreover, even discussions that appear to be destructive in nature may be needed to achieve a resolution in a particular case. In any event, it seems likely that the presence of the observer influences the parties' negotiations for good or for ill.

Of course, mediators do much more than simply observe the parties' negotiations. One might suppose that the active intervention of the mediator would override or transcend any subtle influence that arises from the process of observation. However, it is the influence of another person's presence, whether that person is actively

intervening or not, that we wish to focus on. It may be difficult, if not impossible, to isolate from the complex web of interactions that portion of the mediator's influence that arises from his or her observation of the parties. What is significant, however, is that mediators, by their mere presence, influence the parties.

The Mediator's "Presence"

This brings us to the heart of our thesis: there are certain qualities that the mediator's presence brings to the mediation process that exert a powerful influence and enhance the impact of the interventions employed by the mediator. The term *presence*, of course, has at least two meanings here: (1) the fact that the mediator is physically present and (2) the qualities that his or her physical presence brings into the room. It is the second meaning we are interested in as we explore how the mediator's presence influences the mediation.

As part of that exploration, it is important to recognize that the personal qualities of the *parties* may influence the mediator, just as the mediator's personal qualities affect the parties. Trying to understand the effect of the mediator's presence, without considering the impact of the parties on the mediator (what could be called a reverse Hawthorne effect), is to look at only half of the picture. In traditional psychoanalytic terms, a similar phenomenon might be described as countertransference, the term used to describe feelings evoked in the therapist by the client. (For a useful discussion of transference and countertransference in negotiation, see Fukushima, 1999.) Just as it is important for a psychotherapist to be aware of those feelings so that they do not inappropriately influence the course of treatment, mediators need to be aware of the feelings evoked in them by their clients and the nature of the dispute in order to make productive use of those feelings. In Gestalt psychology, the phenomena we are examining would be viewed as being comprehensible only by looking at the whole set of interactions of

the parties and the mediator, the qualities that each brings to the process, and the changes wrought by those interactions. Gestalt psychologists assert that "living organisms . . . perceive things not in terms of isolated elements, but as integrated perceptual patterns—meaningful organized wholes, which exhibit qualities that are absent in their parts" (Capra, 1996, p. 32).

These analogies from the field of psychology point to the utility of considering mediation from a systemic perspective, one in which we shift our focus from the interests of the individual parties to the set of interactions and relationships of the parties and the mediator. On the basis of systems theory, "The essential properties of an organism, or living system, are properties of the whole, which none of the parts have. They arise from the interactions and relationships among the parts. These properties are destroyed when the system is dissected, either physically or theoretically, into isolated elements. Although we can discern individual parts in any system, these parts are not isolated, and the nature of the whole is always different from the mere sum of its parts" (Capra, 1996, p. 29). Central to this way of looking at mediation is the recognition that the mediator is not extrinsic to the conflict (any more than the therapist is wholly separate from the issues addressed in therapy).

Such an approach is, to some extent, at odds with prevailing norms in the mediation field, in which the independence (or separateness) of the mediator is viewed as professionally appropriate, perhaps even necessary, if one is to be effective. These norms are expressed in ethical codes that articulate a vision of mediation in which mediators, for the most part, have no prior connections with the parties and maintain a stance of rigorous impartiality.

The view that mediators need to maintain a certain distance from the parties may stem from the professional norms of psychotherapy, law, and other disciplines where ethical principles require the professional to avoid personal involvement that might impair the ability to render independent professional judgments.

However, the values and norms of those other professions may not be completely applicable in the context of mediation. One important difference in the professional roles is that a psychotherapist or lawyer must, in some cases, take responsibility for directing the client's actions by giving professional advice. Most codes of ethics for mediators proscribe offering professional advice. For example, the *Massachusetts Uniform Rules on Dispute Resolution*, section 9(c)(iv), states that "a neutral may use his or her knowledge to inform the parties' deliberations, but shall not provide legal advice, counseling, or other professional services in connection with the dispute resolution process."

We are not suggesting abandonment of neutrality or impartiality; far from it. However, being neutral or impartial does not mean that conflict resolvers are separate from the conflict systems they are seeking to help resolve. Because mediators are inextricably involved in the conflicts they mediate, impartial may not be as accurate a description of the mediator's role as the term "omnipartial," which has been proposed by mediator Kenneth Cloke (see generally Cloke, 1994).

While reconceptualizing the process as one in which the mediator is personally involved—being influenced by the process as much as influencing it—the mediator must manage the tension between his or her own objectives and those of the parties. The mediator has a professional duty to the clients, whose interests and needs are of paramount importance. Yet at the same time, the mediator cannot fully serve the clients without being cognizant of (1) the evolution of relationships between and among the participants in the mediation, including the mediator, and (2) the impact of the mediation process on the mediator himself or herself.

We are not suggesting that the mediator redirect the attention of the parties from their needs or interests to his or her own. However, we are suggesting a departure from what we believe is the norm in much of the training of mediators with respect to managing their

own feelings in the mediation process. Mediators are taught, for the most part, to contain whatever feelings they may have about the parties to maintain neutrality and communicate, by word and deed, their impartiality. We suggest that the feelings the mediator experiences may be important and useful material that the mediator can use—albeit judiciously—in helping the parties reach a resolution. In using such an intervention, a mediator must also maintain appropriate professional boundaries so that purely personal matters are not interjected into the process.

We are also suggesting that the mediator use his or her own self-awareness by adopting a deeply reflective practice, including the careful observation of the impact that the mediation, the conflict, and the parties have on her or him. Through such a practice, outside the mediation room, the mediator may substantially aid his or her progress in the third stage of mastering mediation to develop those personal qualities desirable for assisting in the resolution of conflicts. In doing so, mediators should seek to increase their awareness of how they resolve conflict in their own lives in order to lessen any unintended impact of unresolved personal conflict on the mediation process.

Subtle Influences

If we accept the view that, notwithstanding impartiality, mediators are inevitably engaged in creating a relationship with the parties—a relationship in which their personal qualities influence the parties' ability to negotiate successfully—we are led inevitably to the next question: What are the qualities in the mediator that contribute to a successful relationship with the parties, one that supports reorganization of this conflict "system"?

The field of psychology suggests some tentative answers to the question. In drawing on insights from psychology, we do not wish to blur the boundaries between mediation and the practice of psychotherapy. (For a useful discussion of the boundaries between these

two fields, see Dworkin, Jacob, and Scott, 1991; and Kelly, 1983.) However, there are many useful points of comparison in the work done by therapists and mediators.

In traditional Freudian psychoanalysis, one of the earliest forms of Western psychotherapy, the therapist was trained to be a "blank slate," rather than attempting to project his or her personality into the process or foster a personal relationship with the patient. The analyst does not even face the patient during their sessions together. The blank-slate approach, in which it was important for the therapist *not* to disclose personal information or points of view, was believed to create the optimal setting for transference, which was considered an essential process for healing (see Kovel, 1976).

Modern psychotherapy has begun to move in another direction, with the therapist taking a more personal role in the therapeutic process (see O'Connor, 1993). Indeed, some schools of psychotherapy have moved to the point of teaching that positive identification with the therapist is beneficial (see Fierman, 1997). Norcross and Guy (1989) write: "Multiple and converging sources of evidence indicate that the *person* of the psychotherapist is inextricably intertwined with the outcome of psychotherapy. There is a growing recognition, really a re-awakening, that the therapist him or herself is the focal point of change" (p. 215). Other schools encourage the therapist to model appropriate behavior. Psychologist Jeffrey Kottler notes that modeling does not mean portraying an unflawed personality but instead "balancing omnipotence and humanness": "Modeling takes the form of presenting not only an ideal to strive for, but a real live person who is flawed, genuine, and sincere" (1991, p. 29).

Proponents of the techniques of neurolinguistic programming (NLP, admittedly, a controversial school of psychological inquiry) have also studied how subtle features of the communications between therapist and client—such as breathing rate, body language, speech and language patterns, the use of metaphor, and eye movements—have an impact on the therapeutic process (see O'Connor,

1993). One of the conclusions that flows from this work is that the therapist cannot truly be a blank slate, because even the most subtle aspects of our presence influence those around us, and we believe (based on our experience with mediation) that this conclusion applies to mediators as well. Indeed, research in the biological sciences has shown that we humans influence each other even by the chemicals our bodies emit.[6]

What these recent trends in psychotherapy have in common is their focus on how the behavior, affect, or manner—the presence—of the therapist influences the therapeutic process, wholly apart from the nature or structure of the therapeutic interventions. An assessment of the personal characteristics of psychotherapists suggests that there are qualities successful psychotherapists have in common, characteristics that may be relevant to the success of mediators as well. Kottler considered the personal characteristics of pioneers in the field of psychotherapy (Freud, Jung, Adler, and Rogers), as well as less prominent but nonetheless successful clinicians, many of whom employed radically different therapeutic techniques. He examined these characteristics because he was puzzled by the fact that, although there were numerous theories of treatment, each competing for hegemony on the basis of greater effectiveness, empirical research failed to show differences in treatment outcome that could be correlated with the technique used by the psychotherapist. One of Kottler's hypotheses was that there might be certain traits that successful therapists have in common and that these characteristics might be better predictors of success in treatment than the methodologies the therapists employed.

Kottler identified several qualities in therapists that appear to correlate with successful treatment. Among the most significant was a characteristic Kottler calls "personal power" or "force of personality"—not power over another person but rather a quality he equates with "charisma." Kottler concluded that, to explain the success of the best psychotherapists:

> The answer is not totally confined to what effective therapists *do*, but also involves who they *are*. The common thread running through the work of all great therapists is the force of their personalities and the power of their personas. They are the kinds of people who radiate positive energy. They are upbeat, enthusiastic, witty, and quick on their feet. They have good voices and are highly expressive in using them. Most of these highly successful practitioners are simply interesting and fun to be around. And they exhibit qualities that other people want for themselves. . . . [Despite their apparent differences in style, they] have all been doing essentially the same things—that is, being themselves and allowing the force and power of their personalities to guide what they do. All the theorists invented styles that made it possible to play on their strengths [Kottler, 1991, pp. 73, 76].

The quality Kottler describes as personal power is similar to a trait discussed earlier: the mediator's presence. Mediator Gary Gill-Austern, describing presence as the essential characteristic that a mediator must bring to the table, defines it as "that quality of human action and behavior that addresses the moment, . . . that quality of service that is so alive as to be grace-filled and which transforms its agent into a harbinger of that which heals; that quality of being that loses itself as it meets the other" (see Gill-Austern, 1994). Therapist and mediator Lois Gold (1993) describes presence as composed of several characteristics:

- Being centered
- Being connected to one's governing values and beliefs and highest purpose
- Making contact with the humanity of the clients
- Being congruent

These qualities, she asserts, increase our effectiveness as mediators and enable us to harness the healing potential of the mediation process.

"Centering" is a process familiar to anyone who has ever tried to throw a clay pot on a potter's wheel. The first step is to press against the clay from each side until the spinning mass rotates smoothly and can then be shaped (see Richards, 1962). Centering the clay is similar to what we as mediators do when we begin a mediation: we bring a certain atmosphere into the room, through our personal presence, which has the effect of centering the mediator and the others in the room. An essential element of congruence is genuineness, communicated in part by the degree of authenticity of feeling that is present between individuals. For example, in conversation, we often know on an intuitive level whether an individual is truly *there* with us and communicating openly, honestly, genuinely. Another important aspect of congruence is the ability to behave in a manner that is appropriate for the particular clients we are serving. It is not that we as mediators fundamentally change who we are. It is rather that we accord our clients the respect of behaving in a manner that creates safety and inclusion for them as individuals, regardless of their background, appearance, or station in life.

Another term for these qualities is "integration," which we would define as a quality of being in which the individual feels fully in touch with, and able to marshal, his or her spiritual, psychic, and physical resources, in the context of his or her relationship with other people and with his or her surrounding environment.[7] Others have used the term "mindfulness" to describe this quality. As discussed in the writings of Jon Kabat-Zinn (1994), mindfulness can be defined as "living in harmony with oneself and the world."

In our work as mediators, integration comes in part from developing a strong identification with our role: the transition from feeling that "I am someone who mediates" to realizing that "I am a mediator"—from seeing mediation as work that we *do* to seeing it

as an integral part of our identity. An equally vital component of integration, from the perspective of mediation, is the constant awareness of our connection with the people whose conflicts we mediate. This approach to mediation parallels the development of heightened engagement by some modern practitioners of psychotherapy, who are moving away from an atomistic model of the separateness of therapist and patient to a more systemic model emphasizing engagement and relationship.

The New Sciences

Just as developments in the field of psychology suggest useful analogies for thinking about the personal qualities of mediators, developments of the past century in the physical sciences suggest new ways of looking at the *impact* of those qualities on the mediation process. In the sections that follow, we discuss a range of scientific developments and their potential usefulness as a lens for examining the mediation process.

Quantum Physics

We have already alluded to Heisenberg's well-known uncertainty principle. Heisenberg's theory was part of a series of discoveries that undermined previously settled views that the behavior of matter was fully explained by the laws of Newtonian physics. A fundamental premise of the Newtonian view was that matter could be analyzed by breaking it down into its constituent parts, and the interaction of those particles of matter could be accurately measured and explained. However, this view was challenged by quantum theory, which is broadly defined as an approach in physics to study and understand the fundamental and universal laws relating to matter and its movement (see, for example, Bohm, 1983). Quantum physicists concluded that electrons, which were supposed to be the smallest parts of matter, also showed wavelike properties, and conversely, light waves sometimes behave like particles of matter. Either of

these outcomes depended, scientists concluded, on how one set up an experiment—on the interaction between the observing apparatus or individual and what is observed. As described by physicist David Bohm: "One can no longer maintain the division between the observer and observed (which is implicit in the atomistic view that regards each of these as separate aggregates of atoms). Rather, both observer and observed are merging and interpenetrating aspects of one whole reality, which is indivisible. . . . What is needed in a relativistic theory is to give up altogether the notion that the world is constituted of basic objects or 'building blocks.' Rather, one has to view the world in terms of universal flux of events and processes" (1983, p. 9).

Of course, the parties in a mediation do not behave like subatomic particles. But the impact of the observer on the observed and vice versa noted by Bohm is certainly consistent with what we see in the mediation room. There, the unique chemistry of mediator and parties produces differing results depending on who is in the room and the personal qualities they bring to the process. This framework is thus a useful metaphor when applied to the context of mediation.

Systems Analysis

Systems analysis offers another metaphor for thinking about this chemistry. Systems thinking became more widely known in the 1930s when ecologists began to explore living systems as wholes, rather than examining smaller and smaller parts of organisms. As noted above, the systems view seeks to explain the essential properties of an organism, or living system, as properties of the whole, arising from the interactions and relationships among the parts (Capra, 1996; see also Bohm, 1983; and Bohm and Hiley, 1993).

Systems analysis (which characterizes much of twentieth-century science) rejects the traditional analytic approach, which was based on the idea that all phenomena could be successfully studied as mechanistically determined events. A key element of such an

analysis was the reduction of organisms and other matter to ever smaller components (see Davies, 1988). Systems analysis embraces contextual thinking, in which the properties of parts of systems are not entirely intrinsic to those parts alone, and can be fully understood only within the context of the whole system.[8]

One application of systems thinking can be seen in recent developments in the study of evolution (see Davies, 1988; Bohm, 1983; and Peat, 1991). As most of us learned in school, Darwin based his evolutionary theory on the ideas of chance variation and natural selection; neo-Darwinism expanded on those ideas by including the concept of *genetic* mutation, yet the theory remains grounded in the concept of natural selection (see Davies, 1988).

A new systems theory of evolution posits the existence of a second phenomenon in evolution in addition to natural selection: symbiogenesis. Symbiosis is the tendency of different organisms to live in close association with one another and often one inside the other. For example, our life is dependent on the bacteria that live in our intestines. Symbiogenesis is the process of living systems coevolving with their environments, including the organisms in that environment. In other words, environments influence the evolution of living systems and vice versa (see Margulis and Sagan, 1986; see also Maturana and Varela, 1998; and Capra, 1996).

Scientists Lynn Margulis and Dorion Sagan theorize that the creation of new forms of life occurs through this symbiotic process, and that cooperation and mutual dependence among all life-forms is the central aspect of evolution: "The view of evolution as chronic bloody competition among individuals and species, a popular distortion of Darwin's notion of 'survival of the fittest,' dissolves before a new view of continual cooperation, strong interaction, and mutual dependence among life forms. Life did not take over the globe by combat, but by networking" (1986, pp. 14–15).

In the context of mediation, systems thinking (and such concepts as symbiogenesis) reminds us of the interdependence of the parties and mediator. This may seem obvious. However, much of

the training mediators receive points in the opposite direction, with an emphasis on the competing interests of the parties in conflict resolution. One example of this tendency in almost all mediation training today is the emphasis on the parties' BATNAs (an acronym for "best alternative to a negotiated agreement"; see Fisher, Ury, and Patton, 1991). To be sure, mediators encourage parties to look at their underlying interests and seek opportunities to maximize those interests jointly through mutually advantageous exchange. Yet there is a deeper link between and among the parties and the mediator, and systems thinking suggests how, even during the relatively brief period of a mediation, we influence each other's interests, goals, and needs. In other words, each episode of conflict resolution is an opportunity for personal evolution, undertaken in cooperation with those around us.

The phenomenon of symbiogenesis offers a model of mediation in which the participants (including the mediator) grow, evolve, and change symbiotically. Many mediators have had the satisfying experience of participating in a mediation that resulted in an emotionally charged, cathartic resolution that deeply affected everyone involved in the process—that indeed left them "changed" by the experience. This type of growth (or coevolution) is powerful because of its mutuality; it cannot be accomplished alone. Moreover, it is unlikely to happen unless the mediator is attuned to opportunities for growth and change and able, because of his or her personal qualities, to support them. Looking at the process of mediation more broadly, one could even describe its increasingly widespread use as an evolutionary change that is leading our world toward higher levels of cooperation and mutual dependence.

Self-Organization Theory

Self-organization theory grew out of the early years of cybernetics. Scientists studying the capabilities of computers did an experiment in the 1950s in which they built models of binary, or simple on-off, networks (Capra, 1996). One such network had lamps that

were designed to turn on and off at the connecting nodes in response to a bulb turning on or off at an adjacent node or nodes. The scientists activated this network by turning on certain random bulbs and were amazed to discover that after a short time of random flickering, ordered patterns emerged. They even observed waves and repeated cycles passing through the network. These networks, also known as Boolean networks, may lead, according to researcher Stuart Kauffman (1995), to an answer to fundamental questions regarding life emerging spontaneously from chaos to order through the collective, coherent dynamics of the coordinated behavior of the coupled molecules in such networks.

Russian scientists studying chemical reactions made an analogous discovery. These scientists mixed simple red and white chemicals and blended them so that they were in equilibrium. They then added other chemicals to the mixture of red and white, applied heat to the mixture, and tried other variables. The chemicals reacted by separating into red and white, but then restructuring themselves into beautiful swirling, spiraling patterns. The phenomenon, called the Belousov-Zhabotinsky reaction, demonstrates the ability of matter to restructure itself at an entirely new level of organization (see Wheatley, 1992; see also Wheatley, 1996; and Prigogine and Stengers, 1995).

These two phenomena—the process of random light connections becoming ordered patterns and the restructuring of matter into something new—and many other experiments led to the development of "self-organization" theory (see Capra, 1996; see also Kauffman, 1995). As this theory developed, it became clear that a distinguishing characteristic of a vital, living system is its ability to self-organize.

The field of biology offers a third set of studies examining self-organization. Autopoiesis, which means self-making (combining the Greek word *auto*, meaning "self," and *poiesis*, "making"), is a concept developed by Chilean neuroscientists Humberto Maturana and Francisco Varela. When Maturana and Varela studied the

distinction between living and nonliving systems, they discovered that living systems were always composed of networks. Autopoiesis is a process that allows evolutionary change to happen within networks, by enabling these networks to "self-make." Within these living networks, such as the network of our cells or our organs, each component in the network helps produce and transform other components while maintaining the fundamental characteristics of the network (see Maturana and Varela, 1998). The cells in our own bodies are an example of the self-making process, as they break down and build up new structures, tissues, and organs in constant cycles, even as we maintain our fundamental identity, or pattern of organization. Capra writes: "Many of these cyclical changes occur much faster than one would imagine. For example, our pancreas replaces most of its cells every twenty-four hours, the cells of our stomach lining are reproduced every three days, our white blood cells are renewed in ten days, and 98 percent of the protein in our brain is turned over in less than one month" (Capra, 1996, pp. 218–219).

From their examination of this fundamental attribute of living systems, Maturana and Varela moved on to study the nature of the mind. They concluded that the mind is not a thing but a process. The mind is cognition, the process of knowing. They called this the Santiago theory. Cognition, according to the theory, is the process by which an autopoietic network, or a living system (the mind), self-organizes and self-renews (see Maturana and Varela, 1998; see also Capra, 1996). According to Maturana and Varela, this "process of cognition or knowing" or self-making ". . . compels us to adopt an attitude of permanent vigilance against the temptation of certainty. It compels us to recognize that certainty is not a proof of truth. It compels us to realize that the world everyone sees is not *the* world but *a* world which we bring forth with others. . . . The authors of the Santiago theory . . . assert that . . . there are no objectively existing structures; there is no pre-given territory of which we can make a map—the map making itself brings forth the features of the territory" (Maturana and Varela, 1998, p. 245; see also Capra, 1996).

One possible application of this theory for mediators comes in the early stages of the mediation process, when the mediator elicits from the parties an account of what happened—that is, what led them to enter the mediation process in the first place. The Santiago theory and the concept of autopoiesis suggest another way of understanding that step in the process. For many of us, our operating assumption is that there is some objective reality of what happened. We often try to discern that reality from the parties' accounts, even if the accounts are incomplete or self-serving. However, what we usually find is that the parties in conflict have vastly differing views of what happened. The Santiago theory suggests that for each of us reality is a unique creation (Maturana and Varela, 1998).

These theories suggest that every system (and thus every individual) has a history and process of organizing itself. Our worldview is a result of the completely different influences and experiences we have had in our lives and therefore a unique perception of reality. As our cognition does not take in and store an objective reality (which was the old mechanistic view), our accounts of "what happened," whether in a mediation or elsewhere, are a product of our own creation of meaning and order.

If reality is defined individually, these theories suggest that we as mediators "create" the conflict resolution process through our perception of the participants, the conflict, and our role in it as conflict resolvers. Just as our clients have created the conflict they bring to us and perceive that conflict through their particular worldview, so we as mediators perceive the conflict through a worldview that is a product of our own creation. Accordingly, who we are—that is, the personal qualities we bring into the mediation room—begins to take on larger significance. These qualities affect not only our impact on the parties and the conflict resolution process but also the manner in which that process assumes a reality for us as mediators (see Bohm, 1983). Mediation, in this worldview, has the features of an autopoietic system—one that, as described by Margaret Wheatley, is "not the fragile, fragmented world we attempt to hold

together, but a universe rich in processes that support growth and coherence, individuality and community" (see Wheatley, 1992, pp. 18–19; and Maturana and Varela, 1998).

Chaos Theory

Another metaphor from the physical sciences that may be useful in thinking about our influence as actors in the mediation process is chaos theory, which involves the study of systems that appear so complex in their details as to defy description and explanation, such as turbulent rivers, weather patterns, and brain wave activity (see Peat, 1991; and Davies, 1988). Chaos theory has many startling implications, among them the concept that very subtle changes in one part of a complex system (such as atmospheric conditions) can cause enormous changes within that system as the ripple effect of the initial change mounts. This insight grew out of attempts by one of the founders of chaos theory, Edward Lorenz, to create a computer model that would predict weather. Recalling an ancient Chinese proverb that the power of a butterfly's wings can be felt on the other side of the world, Lorenz demonstrated that weather patterns are so sensitive to subtle changes that they defy accurate long-range prediction, leading him to inquire whether the proverb might be literally true (see Davies, 1988; and Kauffman, 1995).

For mediators, chaos theory suggests that the infinite complexity of the dispute resolution systems in which we find ourselves has the paradoxical effect of both limiting and extending our ability to influence that system. Our ability is limited by the number of variables at work; we simply cannot understand all of the layers of experience, meaning, emotion, and intention that the participants (including the mediator) bring to the table. However, we can take some measure of comfort from a description of chaos theory by one commentator, who writes that "you cannot direct a living system, you can only disturb it. In a system, the most we can do, when we are trying to serve, is to contribute a little twitch, be a little disturbance. . . . You cannot tell another human being or a human organization what to do and expect it to do it" (Wheatley, 1996, 23).

This is not to say that a slight "twitch" is all that we can do as mediators. Our interventions sometimes need to be more forceful, even blunt. However, in some cases, a slight twitch may be enough. In other words, the effectiveness of our interventions often arises not from their forcefulness but instead from their authenticity. When our actions as mediators—whether they are directed at mundane questions or questions that go to the heart of the matter—communicate a high degree of genuineness, presence, and integration, even the gentlest of interventions may produce dramatic results.

Implications for Mediation Practice

Taken together, the scientific theories we have briefly described here offer a new way of looking at our physical environment that emphasizes connection over separateness and interdependence over independence. These theories do not supplant the older theories from which they emerged. For example, scientists still build bridges and launch rockets using Newtonian principles and not those of quantum physics. Meteorologists go on predicting the weather using such tools as radar, notwithstanding the complexities of chaos theory. Among the common elements of the new sciences are that they (1) offer insights into phenomena that operate at a higher degree of subtlety than scientists had heretofore detected (for example, the behavior of subatomic particles) and (2) point to a higher degree of integration in the world's living (and nonliving) systems.

These common elements correspond to two themes we believe are relevant to the study and practice of mediation: (1) there are phenomena at work in mediation that operate on a level of subtlety that we have only begun to fathom and (2) mediation is a process that we can better understand as an integrated system than as a set of discrete interactions between and among individuals acting autonomously.

Both of these themes are relevant from the standpoint of the personal qualities of the mediator and their impact on the process.

For one thing, as shown by the psychologists' studies of neurolinguistic programming and the studies showing the impact of human pheromones, we as individuals influence each other in ways that are so subtle as to defy conscious detection or control. What this means for mediators is that once we have learned the basic principles and skills of mediation, and practiced them to the point where they feel natural, the next frontier of learning and development is within ourselves.

There are well-developed curricula focusing on the first two stages of mediator development—skill and theory—but we are not aware of any mediation training focused on personal development. Although it lies beyond the scope of what we are attempting to describe in this chapter, some consideration of the design of such a curriculum would, in our view, be worth undertaking. Just as there are many approaches to training in the areas of mediation skills and theory, we can imagine many possible approaches to training focused on the third stage of mediator development.

Second, our influence, and the influence of the parties with whom we work, sets in motion a process in which each participant's view of the conflict and each other is immutably altered. This is not a one-way street. The mediator's views and outlook may be influenced by the parties as much as the other way around. Far too often, when we attempt to understand or analyze the mediation process, we separate out the mediator, or the conflict partners, or the content of the mediation, or the kind of mediation, or the techniques used, or the particular mediation theory followed. A more fruitful approach may be to examine the process contextually, seeking to understand the relationships that are evolving and coming into existence as the process unfolds.

When we are mediating, if our approach is "I am the mediator, separate from the conflict, and my clients are here because they have a problem," we are not thinking about the mediation process systemically. The systems approach would involve thinking more along these lines: "I, as the mediator, am about to become a part of

this conflict. How am I reacting to my clients? How are they reacting to me? How do I generally react to this kind of conflict in my own life? What qualities am I bringing into the midst of this conflict which will support its resolution?"[9]

The "Integrated" Mediator

Integration is a quality that we may never fully achieve but are constantly developing. It is a quality that, we believe, mediators should foster for two reasons. First, it is a positive model for the parties—bringing peace, if you will, into the room. In the words of Thich Nhat Hanh (1987, p. 1), "If we are peaceful, everyone in our family, our entire society will benefit from our peace." Second, by subtle means that are more easily described than understood, the "integrated" mediator's presence aligns the parties and mediation process in a more positive direction.

The Integrated Mediator at Work

As noted earlier, the mediation process can best be understood as a system in which the relationships of the parties to each other and to the mediator are in flux. Because of the fluidity of this system, and the parties' expectations that the mediator may be able to assist them in reaching a resolution, the mediator has an extraordinary opportunity to shape the direction of the parties' interactions and discussions.

As they consider the parties' accounts of their dispute, mediators distill in their own minds a vision of the dispute based on (1) their own perceptions of the parties (for example, their credibility, rationality, and objectivity, or lack of same) and (2) their own worldview. In short, mediators re-create the dispute, putting their own stamp on their vision of the dispute. This is unavoidable because each of us has our own experience of the world and our own perception of reality. What we see "is not *the* world but *a* world" (Capra, 1996).

The personal qualities of the mediator thus affect his or her ability to sort through the clutter of emotion, accusation, and recrimination that the parties bring to the table. The qualities we have described as integration enable the mediator to be aware (and accepting) of the limitations of not only the parties' partial (or what some might consider distorted) views but also his or her own partial views.

These same qualities help the mediator envision an integration of the parties' interests. Why? Because once mediators can experience their own views of the dispute as having a validity that is neither less than nor greater than that of the parties, they can begin to feel comfortable relinquishing their own vision of the right way or the best way to resolve the dispute, and abandon any intention of imposing that vision on the parties. Instead, the mediator seeks, as the first order of business, to establish a genuine relationship with the parties—a relationship that enables the mediator to reach a deeper level of understanding of the parties' views and objectives. Nonjudgmental awareness of the parties' needs thus constitutes the starting point for the mediator to use his or her influence, in a graceful and appropriate way, to guide the process toward resolution.

Imagine, if you will, a jigsaw puzzle in which the pieces can autonomously change their shape. The person attempting to solve such a puzzle has to continuously adjust his or her vision of how the pieces might align themselves to make a whole. Mediators are, in some ways, trying to solve such a puzzle. They seek to understand, with the same degree of detachment as the person solving the puzzle, the manner and extent to which the parties are willing to adjust their positions to fit those of the other parties, and yet paradoxically they can do so only by involving themselves in a deeply personal way with the parties.

Consider still another metaphor for the mediator's work: that of a medical doctor. Dr. Jerome Groopman, an oncologist and AIDS researcher at Boston's Beth Israel/Deaconess Hospital, is known as a physician of "last resort," a healer to whom other physicians send patients whose condition appears to be beyond treatment. Here is

a description by Groopman of his diagnostic procedures, beginning with his conversation with a patient named Kirk:

> "I want to hear the story directly from you—not from the records—and in detail. . . . Then I'll examine you. From top to bottom. After that, we'll think this through together. . . ."
>
> In having him repeat his medical history and physical examination now for the fourth time, I wasn't performing a perfunctory ritual. . . . [E]ven if I discovered no new fact or physical finding, there was a journey taken when I listened to a patient recount his history and when I palpated his body. It was a journey of the senses—hearing, touching, seeing—which carried me into another dimension, that of intuition.
>
> I planned to walk deliberately along the milestones of Kirk's life . . . the extent of his education, the nature of his occupation . . . the status of his personal relationships, the vicissitudes of his prior and current illnesses and treatments—and for brief but illuminating moments I became integrated into his experience.
>
> After imagining his past through his retold history, I would be prepared to enter his present through the physical examination. My hands would press deeply into his abdomen to outline the breadth and texture of his inner organs; my eyes would peer behind his pupils to read the barometers of cerebral pressure and blood flow displayed on his retinas; my ears, linked by the stethoscope, would hear the timbre of his heart [Groopman, 1997, pp. 8–9].

The integrated mediator works in similar ways, taking the temperature of the room and the parties in it, diagnosing the causes of their dispute and their difficulties in resolving it, and trying to unlock the healing potential present in the parties themselves. To practice

mediation in this way is a task of both mind and heart. It requires the mediator to integrate, in his or her relationship with the parties and their dispute, both cool detachment and profound engagement.

Personal Development

If it is true that we can increase our effectiveness as mediators by developing the ability to be authentically present and fully integrated within a conflict system, how do we develop those qualities?

This is a question that, in our view, must be answered individually. Some have found the answer in such practices as meditation, yoga, or religious discipline; some in psychological inquiry or other avenues of personal growth and self-discovery. In *The Seven Habits of Highly Effective People* (1989), Stephen R. Covey discusses the various techniques used by individuals to "sharpen the saw"—physically, mentally, emotionally, and spiritually. Philosopher Kenneth Wilbur gives this description of a process he found useful in reaching a higher level of self-understanding:

> My life is not simply a series of flatly objective events laid out in front of me like so many rocks with simple location that I am supposed to stare at until I see the surfaces more clearly. My life includes a deeply subjective component that I must come to understand and interpret to myself. It is not just surfaces; it has depths. And while surfaces can be seen, depths must be interpreted. And the more adequately I can interpret my own depths, then the more transparent my life will become to me. The more clearly I can see and understand it, the less it baffles me, perplexes me, pains me in its opaqueness [Wilbur, 1996, p. 93].

Developing these qualities requires focus and intention. As we focus on understanding and interpreting our own depths, we develop a greater ability to be present with a wider and wider

variety of conflict. We develop a mastery over ourselves and therefore over the process of supporting the resolution of conflict.

Obviously there are many paths to greater awareness, and our purpose in discussing this aspect of personal development is not to advocate any one of them. However, we do suggest that the growing interest in this dimension of the mediator's work, as evidenced by the increasing number of articles on spirituality and mediation, reflects a significant direction in which our field is evolving (for example, see Zumeta, 1993; and Gold, 1993).

Most importantly, we need not wait until we are in a mediation to practice developing these qualities. One can, and perhaps should, focus on the development of these qualities in every aspect of one's life. Presence is a quality that can be developed in all areas of our life. In the heat of any personal conflict, one can work on developing the capacity to be present to every aspect of that conflict, while stepping aside from one's own point of view and learning to distinguish one's thoughts, from one's emotions, from one's perceptions, from our conflict partner's point of view, to embrace a broader, more integrated, view—in the words of Thich Nhat Hanh (1987), to "be peace." By developing the quality of our own presence in every aspect of life, we not only expand our capacity to bring that presence of peace into our work as mediators, we also develop our ability to fulfill our own life.

As we consider this form of personal development, we should not overlook the impact of the mediation process itself—the extent to which we are influenced by the parties, their dispute, and the manner in which it is resolved. If, as we contend, integration is a quality that we never fully achieve but develop over time, one of the benefits of our work as mediators is that it may foster such development. In most mediations, we encounter parties whose disputes do not differ radically from conflicts that have arisen in our own lives—that is, their issues are our issues. To be effective in such a setting, we must address our own need for growth, in our relationships with our

clients and in our lives outside the mediation. A truly successful resolution of a mediation thus can become, for the mediator, a metaphor for the personal challenges in his or her life and a means for achieving a higher level of personal integration.

Conclusion

We have described three stages of development that we and many other mediators have taken on: (1) training in the basic skills of mediation, (2) developing a greater intellectual understanding of the process, and (3) developing the personal qualities that make us more effective dispute resolvers. We have also described some developments from the social sciences and physical sciences that offer useful metaphors for thinking about conflict and its resolution. These metaphors enable us to see more clearly how the mediator is inevitably part of the conflict he or she seeks to resolve. This way of understanding the dispute resolution process informs our view that the personal qualities of the mediator can be influential in shaping that process and its outcome.

The personal qualities that assist us in becoming better mediators are not the same for each of us, nor are our paths to achieving those qualities the same. We have attempted to describe in this chapter those qualities—self-awareness, presence, authenticity, congruence, integration—the development of which constitutes the "third task" in our progress as mediators. However, any attempts to describe these elusive qualities must always fall short of the mark. Understanding what the qualities are and why they work is always both highly personal and situational, a product of the moment and the people in it. Developing these qualities is a process of time, intention, and discipline, and it comes, in our view, not from intellectual inquiry or scholarship but from experience. To paraphrase Oscar Wilde, these are qualities that can be learned but they cannot be taught.

Reflective Practice Questions

As we noted in the Introduction, the reflective practice questions at the end of each chapter are intended to highlight aspects of the chapter that, in our view, bear on the overall themes of this volume.

1. What are the qualities in you that most contribute to bringing a peaceful presence into the room?
2. Have you experienced the mediation equivalent of the Hawthorne effect, or the quantum physicist's theory regarding the impact of the observer on an experiment? That is, when you serve as a mediator, do the parties appear to behave differently in your presence?
3. Do you agree with the view of mediation as a system that involves you, your personal qualities, your influence on the parties, and their influence on you? If so, what impact does the systems view have on your practice?

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