Mediator Style and the Question of "Good" Mediation: A Call for Theoretical Development

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One of the questions raised by the editors of this special issue is "Where does style research rank in importance relative to other important topics on mediation or mediator behavior?" Looking across the papers in this issue, we can see that mediator style is used as a pivotal construct for exploring some fundamental issues facing the mediation field, including mediator quality assurance (Bingham and Charkoudian); mediator ethics (Charkoudian and McDermott); and evaluations of the outcomes of mediation (Bingham, Charkoudian, and McDermott), participant satisfaction with mediation (Charkoudian and McDermott), mediator effectiveness (McDermott), and dispute resolution program design and implementation (Bingham and McDermott). In different ways, each author in this issue suggests a link between mediator style and important questions about the nature of good mediation practice—whether mediation practice is competent, ethical, and effective.

My goal in this commentary is to examine the suggested link between mediator style and good mediation practice more explicitly. I will argue that the construct of mediator style is not yet sufficiently developed theoretically to support the conclusions being attributed to it. I will conclude with some implications of this observation for future research.

Style: Making Sense of What Mediators Do

It is no secret that the empirical research that describes what mediators actually do presents a very confusing and contradictory picture of mediation practice (e.g., Alfini, 1991; Burns, 1998, 2001, 2004; Bush, 2004; Cobb, 1997; Cobb & Rifkin, 1991; Della Noce, 2002, 2009; Dingwall, 1988; Donohue, 1991; Garcia, 1991, 1995, 2000; Greatbatch & Dingwall, 1989, 1994, 1997; Heistercamp, 2006; Kolb, 1983; Kolb & Associates, 1994; Phillips, 1999; Silbey & Merry, 1986; Stewart & Maxwell, 2010; Tracy, Spradlin, Folger & Jones, 1994). Some of the behaviors described in the research run counter to the expressed norms of good mediator behavior in the field (see, e.g., Alfini, 1991; Bernard, Folger, Weingarten & Zumeta, 1984; Cobb, 1997; Cobb & Rifkin, 1991; Dingwall et al., 1988; Folger & Bernard, 1985; Greatbatch et al., 1994; Kolb & Associates, 1994) and some are in direct contradiction to each other (Bush, 2004; Della Noce, 2002, 2008, 2009). Designating mediator style labels to describe certain clusters of mediator behaviors is a way to impose order on this apparent chaos (e.g., Alfini, 1991; Bush & Folger, 1994; Kolb, 1983; Riskin, 1994, 1996). It is also an important step in defining a discipline, because it is difficult to define coherent behavioral markers of competence and standards of practice for goodness in a discipline when anything goes (Della Noce, 2009).

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It is worth pausing to consider, though, what is meant by mediator style. After all, mediator style is a construct. It is not a tangible object that exists in the material world, but rather a formulation designed to capture, organize, and label certain observations that are made in the material world. If we remember that mediator style is merely a construct, it makes sense that Charkoudian in this issue would find that there is no consensus on the actual meaning of the various labels for mediator style in the practitioner community (compare Della Noce, 2008; for a similar finding based on a study of mediators' descriptions of their own styles on a court roster). I would go a step further and point out that there is not a consensus on the actual meaning of the various labels in the scholarly community, either. Some style labels stick and gain currency as descriptive terms while others do not; mediators become invested in some descriptive labels, but not others (Della Noce, 2008). When the construct is used only descriptively, however, no serious consequences (compare Della Noce, Bush, & Folger, 2002). flow from which style labels are used or favored.

What we see across the articles in this issue, however, is that the construct of mediator style is used not just in a descriptive way, but also in an explanatory way, either as the cause of certain outcomes (e.g., Bingham's exploration of the relationship between mediation practice and the achievement of various forms of justice) or the result of certain social conditions or characteristics (e.g., the influence of organizational context on mediator style in Bingham's chapter and McDermott's consideration of the influence of professional background on mediator style). Moreover, it is also used to anchor these evaluations to conclusions about the goodness of mediation practice (whether it is competent, ethical, and effective). When mediator style is used in these ways, it is consequential; it has implications for decision-making and policy-making. In my view, mediator style is too weak a construct to be the foundation for such robust explanations or such potentially serious consequences.

The Importance of Mediator Goals and Values

The term "mediator style" implies that there is a behavioral repertoire that hangs together in some coherent way and upon which a mediator draws as he or she engages in interaction with the clients (compare Charkoudian, this issue; Della Noce, 2002). It also implies that there is a group of mediators who share the same behavioral repertoire. What is not explained is how or why certain behaviors might hang together, or the nature of the relationship between the practices of individual mediators and practices across the assumed group of mediators who might share a style. That is, the concept lacks theoretical development. I suggest that the construct of mediator style can be made more robust by adding consideration of mediator goals and values. Mediator goals and values supply some of the missing connections and missing explanations. Goals and values are what bring coherence to the discourse of individual mediators; likewise, shared goals and values are what bring coherence to the discourse of mediators across a group.

If we want to understand, hypothesize, or explain any kind of coherence (or lack thereof) in the style-related practices of mediators across a group, it is critical to study a *group* of mediators united by style. Studying the behaviors of a collection of individuals is not the same as studying a group. A group is a collectivity of people that has continuity

beyond a single event, or shares a common fate, or is engaged in collective action, *provided the group members share a social identity as members of the group* (van Dijk, 1998, pp. 140–147; emphasis added). In other words, group members share a *group identity*. A group identity refers to an identity of group members *as group members* that is anchored in a preferred moral order or a preferred vision of what is normal, right, and good in human interaction (van Dijk, 1998, pp. 120–121). Thus, the shared *goals* and *values* of group members are key components of group identity (van Dijk, 1998, pp. 69–70).

Hence, to study mediator style as a group-level pattern of behavior, one must study a group of mediators united by style. To study a group, one must define the collectivity to be studied based on group identity, which includes the goals and values of group members. Across the studies in this issue, we see inferences about the behaviors of collectivities of people, but the anchor of group identity is missing because inquiry into goals and values is missing.

Both McDermott and Charkoudian (this issue) aggregated mediators into style-based groups based on inferences from individual-level behaviors and tactics. McDermott based his conceptualization of mediator style on mediator self-reports about their tactics and background, which he grouped and coded into styles. He then drew conclusions about the relationships between mediator styles, as he coded them, and various outcomes of mediation. Absent a discussion of whether the mediators actually shared goals, values, and a group identity tied to their style, I am not convinced that the relationships he found have anything to do with mediator style. Likewise, Charkoudian (this issue) created her groups on the basis of shared behavioral patterns that she found in self-reports and in certain observations. There is little discussion of goals, values, or what makes the mediators who share certain practices a style-based group. For both studies, without some sense of whether these mediators actually shared goals and values, we cannot say the finding of shared activities is much more remarkable than the observation that people who share a language will do certain things similarly with their language.

Although Bingham (this issue) takes a different approach, her research is still troubled by the weak formulation of mediator style. Bingham conducted research for a program that had declared its official mediator style. The official style was taken at face value as the mediator's approach to practice; mediators were treated as members of a group that shared that style. This is problematic for a number of reasons. First, institutional rewards were associated with declaring allegiance to that form of practice, whether one actually practiced it or not (compare Della Noce, 2008). Second, mediators do not consistently or accurately use style labels to describe their own practices (Charkoudian, this issue; Della Noce, 2008). Third, mediators are known to use styles outside the professed program style (McDermott, this issue). Finally, mediators are often reluctant to identify their own styles of practice; in fact, mediators may face political, social, and economic pressures against identifying with particular styles (Della Noce, 2008). Thus, absent interrogation of the mediators' actual goals and values, we do not know whether the mediators studied actually did share group identity around their style—we do not know what they were trying to achieve or why. This makes Bingham's finding that some mediators deviated from acceptable mediation practice for the style under study less than surprising, as it is questionable whether all of the mediators were actually oriented to the stated goals and values of that style.

While I appreciate many of the findings reported in this Special Issue, given the central importance of mediator goals and values for any robust understanding of mediator style, I am skeptical that these findings are best explained by invocations of mediator style. In the next section, I turn to some implications for future research that follow from this argument.

Conclusion and Implications

I began this commentary with a question posed by the editors of the issue about the importance of mediator style in the grand scheme of mediator research. I conclude this commentary with my thoughts on a related question raised by the editors: "why has so little progress been made in mediator style research?" I suggest that one answer is that research has lacked a robust formulation of the construct of mediator style—a formulation that places the construct in a conceptual framework and offers a theoretical basis for empirical study.

To strengthen the formulation of style, I suggest that research must be crafted in such a way as to study the behavior of mediators who are acting intentionally as members of style-based groups (e.g., mediators who are intentionally practicing transformative mediation; compare Della Noce, 2002). To do so, studies need to capture not just mediators' behaviors, but also their goals and values. More triangulated studies will be a positive step. That is, researchers should both observe mediators in interaction and interview the mediators about what they are doing and why. Tracy (1997) refers to this as studying the "discourse *of* an event and discourse *about* an event." Because we cannot read goals, intentions, and values directly from behavior, observational studies alone raise questions about which mediator behaviors are goal-directed and which are simply mistakes. On the other hand, self-reports alone are limited by mediator mythology, self-presentation bias, social desirability bias, and even a lack of meaningful insight or shared vocabulary. Triangulated studies counterbalance and protect against some of these limitations. I also suggest that, as this is an area for which theory building is needed, qualitative, inductive approaches to study are uniquely suited to the task.

These suggestions will not only help us develop a more robust formulation of mediator style, they will also help us address the endlessly vexing question about whether mediators switch and blend styles. Claims that mediators can be eclectic and flexible across styles, blending and switching styles at will, are popular among mediators for many reasons (Della Noce, 2008). But it is not clear what these mediators are supposedly switching and blending: skills, tactics, repertoires, goals, values, or styles. I suggest that the image of the eclectic and flexible mediator makes sense only at the level of decontextualized skill (thus, the popular notion that mediators are neutrals who come equipped with their vast box of tools for intervening in conflict). The image makes far less sense if mediators are understood to be acting intentionally and in a goal-directed way from a core set of their own values when they intervene in conflict—that is, from their own vision of what is good in human interaction and what is good in conflict (Bush & Folger, 1994, 2005; Della Noce, 2008). Core values about the nature of human beings, interaction, and conflict tend not to be quite so eclectic and flexible. For research purposes, the issue could be explored by first

taking account of differences in goals and values among mediators, creating groups of mediators based on these differences, and then comparing behaviors within and between the groups for patterns of similarity and difference (compare Della Noce, 2002). Of course, it will be found that mediators share some tactics; they share a language and the same communication tools at the skill level. But, if the analysis is bumped up to more complex thinking about strategies, repertoires, goals, and values, we can expect to find some striking similarities within groups and differences between groups (Della Noce, 2002; compare van Dijk, 1998). Those findings will enrich our discussions of mediator style and its implications.

In conclusion, I want to emphasize, as I did at the beginning of this commentary that style is a very important research topic because, as it is presently being used, it directly impacts efforts to understand the nature of good mediation. At present, descriptive style research successfully shows us that different mediators do things differently. With proper theoretical foundations, we could build on this research to learn why. When the why of mediator behavior is added to the construct of style, we will have the necessary foundation for connecting the construct of style to the important questions of whether mediator practice, or any given style, is competent, ethical, and effective.

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