Is a Stage Model of Mediation Necessary?

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Although stage models of mediation have dominated theory and practice in mediation, several aspects of mediation practice are not fully consistent with a stage model. This article makes explicit several stage model anomalies and offers an alternative conceptualization of the mediation process. This emergent-focus model is compatible with Bush and Folger's (1994) view of mediation as a transformative process.

It is routinely accepted in the field of mediation that the mediation process occurs in stages or phases. Moore (1996) has identified twelve stages of mediation that consist of "common and predictable activities" (p. 64) that have been discerned through careful observation of mediated interventions in a variety of cultures. In their review of literature, Carnevale and Pruitt (1992) reported that a three-stage model involving "setting the stage, problem solving, and achieving a workable agreement" (p. 567) appears to describe what commonly occurs in mediation. Others have noted stages in family mediation (Haynes, 1982), conciliation court mediation (Cramer and Schoeneman, 1985), and mediation across all situations (Folberg and Taylor, 1984).

These are descriptive models, based on observations of many kinds of mediation in a range of cultures. Writers emphasize the particular tasks that are accomplished by the parties during each stage and the interventions necessary for the mediator to undertake for the tasks to be satisfactorily completed. Thus there are techniques a mediator might use, for example, to help parties describe their concerns, develop an agenda of issues to be discussed, identify interests, name a variety of options to consider, evaluate the options, make decisions regarding specific issues, and so on. It is stressed that mediators do not make substantive decisions for parties, but instead facilitate the

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process so that the tasks of each stage are executed and parties may complete the final stage by reaching an agreement.

The actual practice of mediation is not fully compatible with stage models, however. We have observed several anomalies, aspects of mediation practice that are not consistent with the step-by-step ordering of tasks implied by stage models. In addition, Bush and Folger's (1994) critique of a problem-solving approach to mediation may be applied to stage models in general. We propose an alternative conceptualization of the mediation process, called the emergent-focus model, that removes the linear sequencing of events in mediation and addresses the anomalies. It may be thought of as one way to put into practice Bush and Folger's transformative approach to mediation.

Stage Model Anomalies

Despite the popularity and widespread acceptance of stage models, mediators, mediation theorists, and mediation trainers also mention phenomena occurring during mediation that are not entirely consistent with the linear unfolding of events implied by a stage metaphor. Consistent with Cobb's (1991) call to attend to the anomalies that result from "the growing schism between theory and practice" (p. 87), we refer to these phenomena as *anomalies* and describe several that occur regularly during the course of mediation:

- Parties sometimes need to return to previous stages.
- Parties sometimes take a different path.
- Action isn't always visible to the mediator.
- Mediator activities affect substance as well as process.
- Desired mediation outcome may differ for the mediator and the parties.
- Good things happen even without reaching agreement.

Returning to Previous Stages. It is frequently observed that if the task of a particular stage is not fully accomplished, difficulties will arise and the parties may not achieve resolution of their dispute. This is similar to the psychoanalytic model of personality development in which inadequate stimulation at a particular stage of development results in unresolved issues (fixations) that may influence behavior well into the future. For example, as parties are finalizing an agreement, one party might demonstrate surprisingly great reluctance to give final assent. It turns out that not all of the party's interests with respect to that issue have been identified, and therefore were not addressed in the agreement. Stage models assume that a particular task (for example, interest discovery, issue identification, option generation) is accomplished at a specific point in time. But this does not match reality—it is more commonly the case that many of these tasks are addressed throughout mediation.

Most frequently this phenomenon of incomplete task accomplishment is described as necessitating a mediator intervention of returning to earlier stages

(for example, Folberg and Taylor, 1984), or "backing up" (Shaw, 1985, p. 32). If one party proves reluctant to accept an agreement that appears to satisfy stated interests, the mediator (if he or she did not simply ignore the party's hesitation and forge ahead) would cycle back to interest discovery to help clarify the party's reluctance to sign the agreement. Conceptualizing this as returning to a previous stage seems to us merely an attempt to salvage stage-model thinking in the face of an inconsistency. Thus on one hand mediation is thought to progress through a sequence of stages—but on the other hand this does not match the nonsequential reality of mediation, where tasks may be undertaken at any time in the process.

Taking a Different Path. Mediators are taught to "trust the process," and if parties appear to skip any steps in their negotiations, mediators learn techniques to bring them back for a full consideration of the tasks in each step. Thus mediators are taught how to handle circumstances such as jumping to solutions too soon or exploring options prematurely. Yet in practice parties sometimes achieve satisfactory results without full involvement in all the stages, or by skipping stages altogether. For example, decisions are made without an extensive list of options or with limited discussion on the merits of different options; parties settle issues without explicit consideration of interests, and issues become less important and parties proceed to an agreement once apologies are made.

Taking Action Invisible to the Mediator. For the mediator to guide the parties through the stages, the discussions at the table must be explicit enough for the mediator to understand the conflict dynamics and what stage the parties are (or should be) working on. Yet it is also understood that many important things can happen in mediation outside the mediator's view. Certainly parties may have productive interactions between mediation sessions that lead them in satisfying directions. Or their circumstances change so that they no longer wish to pursue mediation. Or even after an agreement is reached in mediation, the parties may continue to grow in their understanding of their own concerns and those of the other.

Also, at the mediation table there may be important occurrences that are beyond the mediator's direct awareness. A party's thinking about personal options may shift without any verbal expression of the change—but this modification influences later decisions. One party may gradually begin to think in new ways about the perspective of the other party and, without expressing any new level of understanding, become more open to the other's point of view. This latter point is represented well by Bush and Folger's (1994) concept of levels of recognition, the different degrees to which one party may take the perspective of another, only some of which are objectively observable.

Influencing Substance as Well as Process. One of the commonly expressed implications of stage models is the role of the mediator as process expert—mediators guide parties through the stages in a balanced way without

any role in the substance of the dispute. Yet the mediator as process manager also influences the substance of the dispute in direct as well as subtle ways.

Mediators are taught to frame the issues on the agenda in a neutral way that has the potential of expanding the parties' thinking about the issue. Thus, framing a dispute about salary as involving the issue of "compensation" opens other areas to consideration beyond money. Clearly this affects the substance of the negotiations. The responsibility of issue framing also leads some mediators to identify the more concrete or substantive issues and to avoid explicitly identifying the often more difficult emotional or relational issues (Bush and Folger, 1994). Even seemingly minor process decisions by the mediator may affect how the parties think about the conflict. An example is the decision of which party is first to describe his or her concerns. That party's conceptualization of the dispute has a tendency to frame the conflict for the other party to react to.

Desiring Different Mediation Outcomes. As we have said, the mediator's role in stage models is to help parties move through the tasks associated with each stage (Wildau, 1987). This leads to an orientation on the part of the mediator to get the parties to behave in certain ways—to make an apology, to acknowledge the contributions of the other, to express psychological interests, to explore fully the implications of an option, and so on. The mediator becomes a shepherd, guiding the parties in directions they should—as far as the mediator is concerned—go. Mediators make assumptions about what "good" outcomes are and their interventions are intended to move the parties toward those outcomes—and it is commonly assumed that achieving some form of agreement is a good outcome. As Kolb (1994, p. 472) describes, "As the mediators readily acknowledge, they are often ahead of the parties on these issues. They know what should happen, but the challenge is to make it occur."

Yet it is also recognized that parties make decisions and move in (self-defined) satisfactory directions without responding in ways intended by the mediator. An apology is not made, or the parties do not identify negative consequences of an option, but the parties proceed to make decisions with which they are comfortable. Thus a better metaphor may be the mediator as travel agent or tour guide, helping parties get where they want to go.

Good Things Happen Even Without Agreement. One of the arguments that supporters of mediation put forth is that user satisfaction with the mediation process is typically much higher than with some form of adjudication. The anomaly is that satisfaction is high—75 percent or higher (Kressel, Pruitt, and Associates, 1989)—even when parties do not reach agreement. In their study of divorcing couples, Kelly and Gigy (1989) found a substantial subset of those who did not reach a mediated agreement were nevertheless pleased with the process because of what else it accomplished, such as improved communication. It seems clear that for some parties reaching formal agreement is not the primary goal. If the goal of mediation is to move parties along the steps to agreement, why do many seem to be satisfied with the process even if this goal is not achieved?

Overview. To summarize these anomalies, many aspects of the practice of mediation seem incompatible with the conceptualization of the mediation process as a sequence of steps to be followed or tasks for parties to accomplish. Bush and Folger (1994) provide a related critique, not of step, stage, or phase models of mediation, but of approaches to mediation that consider conflicts as problems to be solved. The popular problem-solving orientation leads to patterns of practice that may actually limit the opportunities for parties to deal most effectively with the dispute and to come to greater clarity on the issues of concern to them and each other. Bush and Folger offer instead an approach to mediation that emphasizes the parties' capabilities to understand their choices and each other's perspective and to make informed and voluntary decisions.

Mediation as a Transformative Process: A Shift in Thinking

In their ground-breaking work, Bush and Folger (1994) challenge mediators to move beyond the problem-solving orientation that seems to dominate contemporary theory and practice. The widespread movement that views conflicts as problems to be solved and mediation as an opportunity for all parties to have their needs met gained tremendous momentum with the interest-based problem-solving negotiation model of Fisher and Ury (1981). Bush and Folger contend that mediators operating from this orientation take too much responsibility for (and control of) solving the problem. When the mediator adopts the role of helping parties find a solution to their problem, many concerns and needs of the parties are inadequately addressed, and many opportunities for growth that exist for the parties individually and in their relationship are ignored.

Instead, Bush and Folger (1994) argue for mediation as a transformative process in which the goal of mediation is the growth of the parties that occurs through empowerment and recognition. Parties in conflict are described as weak and self-absorbed. Being weak implies that they are unsettled, confused, fearful, disorganized, unsure of what to do, and feeling vulnerable. Self-absorption implies being self-protective, defensive, suspicious, and unable to look beyond personal needs. During mediation, opportunities emerge for parties to move from weakness to relative strength—this is empowerment. Also there are opportunities to move away from self-absorption toward taking the perspective of the other party—this is recognition. Mediators focus on the moment-by-moment opportunities for empowerment and recognition. Solutions to problems can then emerge as by-products of empowerment and recognition—when parties become clearer, more organized, and less fearful, defensive, and suspicious, they are in a position to make decisions on matters of concern to them.

Thus, mediation as a transformative process differs from problem-solving mediation in several ways. First, it emphasizes empowerment and recognition

of the parties. It is not the case, of course, that problem-solving mediators view these concepts as unimportant. The point is that transformative mediation elevates empowerment and recognition to be the primary focus of the mediator. Second, the goal of mediation is to provide the opportunity for the growth of the parties and not simply the solution of problems. While the parties may have as a key goal solving this particular dispute, the goal for the mediator is to help them in that endeavor by surfacing opportunities for parties to move from relative weakness to relative strength and from relative self-absorption to greater compassion. This may assist the parties not only with this particular dispute but also with other interactions. Third, the mediator adopts a microfocus as the overarching approach to practice, looking for moment-by-moment opportunities for empowerment and recognition. This contrasts with the global focus of moving parties through stages toward agreement. Fourth, the mediator's approach is party-directed, facilitating what the parties want to do in their dispute rather than what the mediator believes they ought to do. Although problem-solving mediators also may claim party-directedness, because of the way they conceptualize the conflict there is an inherent mediator-directedness to the mediator interventions. According to Bush and Folger, mediation as a transformative process fulfills the "promise of mediation" because of the growth that occurs in parties as a result of empowerment and recognition. This growth is expressed as the development of what the authors call "compassionate strength" (1994, p. 230).

Emergent Focus: A Nonsequential Model of Mediation

Moving away from the problem-solving or solution-driven orientation, as Bush and Folger propose, also calls into question the stage model of the mediation process. Focusing on problems and their solutions implies a sequential ordering of events—identifying the problem, discussing the problem, developing solutions. But if the goal of mediation is something other than solving problems, then the logical ordering of events incorporated in stages of the process is unnecessary—perhaps even unhelpful and not descriptive of actual practice. Bush and Folger argue that growth of the parties is the goal of mediation, and this is accomplished by a mediator orientation that may be described as a party-directed microfocus on opportunities for empowerment and recognition. As a consequence, the practice of mediation as a transformative process does not imply that the process unfolds in stages. Indeed it might be argued that conceptualizing the mediation process in terms of stages is a vestige of the problem-solving orientation and, as such, leads mediators toward solution-driven mediation practice despite claims of "being transformative."

Even apart from viewing mediation as a transformative process, the anomalies described earlier argue for new thinking about mediation stages. Each anomaly indicates how the actual practice of mediation is in some way inconsistent with a stage model. Although it may be possible to modify stage models

to address the anomalies, offered here is an alternative that does not employ a step, stage, or phase metaphor.

The Facets of Mediation. The concept of tasks is commonly used by stage theorists to describe the activities that occur in a given step (for example, see Moore, 1996). We retain the idea that several different types of concerns are addressed in mediation but remove their sequential ordering. The term *task* carries the implication of an onerous chore imposed by someone. It also has developmental implications—that something must be accomplished before moving on to other things. We use the term *facet* instead, which refers to considerations that are addressed by the parties (not the mediator) in a nonsequential way at various and numerous times during the course of mediation. The facets are expressed here as five basic questions:

- *What are we doing here?* This encompasses the discussions that occur during mediation that involve clarifying the process. Often these matters are considered early in mediation, but also arise regularly at other times. For example, during the course of intense discussion there may be interaction about the value of "no interruption" as a ground rule. Or, after extensive consideration of an issue, parties may discuss the appropriateness and value of consulting with a substantive expert.
- *What is this about?* This includes what is commonly called storytelling or information sharing. Again, this facet is frequently addressed early in mediation, but the parties may return to it regularly. As issues are explored in depth parties may choose to elaborate on the history of their dispute. As options are being evaluated a party may explain favoring a particular cluster of options by describing other, previously unrevealed, events.
- *What is important to self?* Incorporated here is discovery and clarification of a party's interests. This facet is addressed throughout mediation. Procedural interests may emerge, for example, during discussions about confidentiality. Substantive interests are frequently related during initial description of the conflict situation. Interests may emerge or be elaborated as options are being considered.
- *What is important to other?* A party who is considering this facet is to some degree seeking to understand the perspective of the other party. It includes becoming aware of the other's interests and may involve a level of appreciation of the other's situation. Opportunities for a party to address this question exist throughout mediation—essentially any time the other party is speaking or otherwise expressing a view of the situation.
- *What do we do?* When parties make decisions they are addressing this question. Many decisions, especially those related to the substance of the conflict, benefit from option generation and evaluation, processes that are incorporated in this facet. Some decisions do not necessarily include consideration of multiple options—such as the procedural decision of determining which issue to consider next or deciding to consult a substantive expert. Some decisions are not joint decisions but are made as a result of an open discussion,

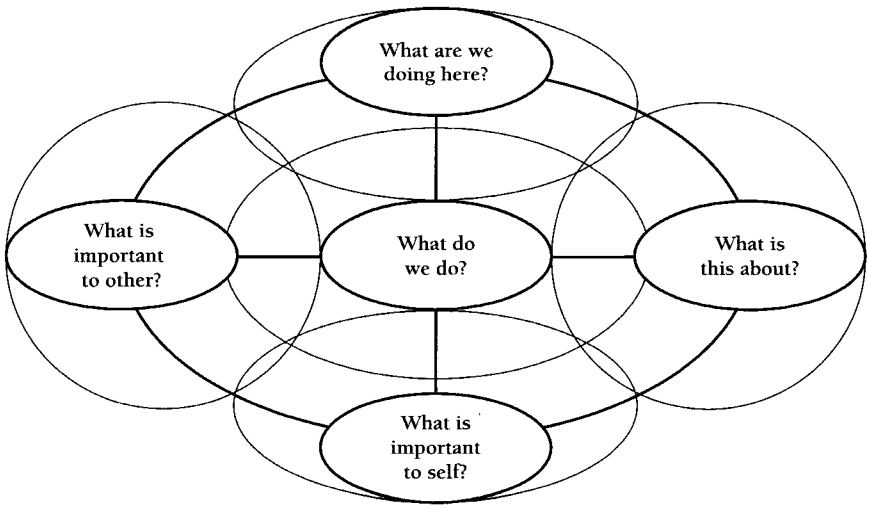
such as a decision by one party not to file a grievance. Some personal decisions are not discussed openly, such as decisions on what information to reveal or what concerns to raise.

We refer to this model of mediation as an *emergent-focus model* because the moment-by-moment focus of the mediator is whatever emerges for the parties. This way of thinking about mediation was stimulated by the work of others, particularly Dorothy Della Noce (1997). She developed a nonlinear conceptualization of mediation represented by a five-unit, circular, multidirectional, interconnecting figure. Others have suggested that mediation proceeds in a similarly roundabout fashion, such as Benjamin (1997), who describes a "nonlinear, circuitous approach" (p. 2.3) of the mediator. Expressing the facets of mediation in everyday language relates to the work of Hoover and Senftt (personal communication, May 1997) and Charbonneau (personal communication, March 1998) who describe the stages of mediation in common language.

Representing the Flow of Events During Mediation. We have attempted to represent the flow of events during mediation by the diagram in Figure 1. Each facet is represented by an oval, and the ovals are connected to each other and intersect one another. This diagram is intended to represent several features of mediation.

First, *there is no fixed ordering of the facets of mediation.* Certainly parties sometimes progress through the consideration of the issues of their dispute in a linear fashion. But it is also true, as described earlier, that this frequently is not the case—some interests are not revealed until parties are nearing agreement, for example, and some agreements may be reached early in the consideration of issues.

Figure 1. Emergent-Focus Model of Mediation



It is also the case that most formal mediations begin with the mediator clarifying the process for the parties, followed by a description of the situation by each party, so there seems to be a commonly agreed-upon starting point for mediation. Two observations, however, warrant consideration. First, closer examination of actual practice suggests this may be an oversimplification. Agreements are sometimes made even at the very early point when the mediation process is being explained. For example, parties may agree on how and to whom the content of the mediation discussions will be revealed between mediation sessions. Yet the "agreement stage" is usually the last step of the process. Interests are often uncovered throughout the entire process, including during the process clarification step, and not only during the step that is labeled "interest discovery." The second observation is that informal mediation—a parent helping children or an individual working with two coworkers, for example—does not necessarily begin with any form of process description.

A second feature represented by the diagram of the emergent-focus model is that *the different facets of mediation may be considered at any point during mediation.* Several illustrations of this point have already been described. The appropriateness of consulting a substantive expert, such as a child development professional, may be considered after several sessions—this is a "What are we doing here?" issue. During discussions of confidentiality early in mediation, one party may express concerns about information being revealed to a job supervisor. This is a "What is important to self?" consideration from the perspective of that party and "What is important to other?" opportunity from the perspective of the other party.

A third characteristic of mediation represented by the diagram is that *the facets of mediation may be considered many times during mediation.* Parties may discuss procedural matters ("What are we doing here?"), the same ones or different ones, on several different occasions as mediation proceeds. Aspects of a party's situation ("What is this about?") may be revealed at many points. Interests ("What is important to self?") may be discovered regarding mediation procedures, during a party's description of the conflict situation, as options are being generated and evaluated, as decisions are being made, and so on. All these situations, as well as many others, are opportunities for a party to consider "What is important to other?" As indicated earlier, decisions ("What do we do?") are made from start to finish during mediation.

A fourth feature symbolized by the diagram is that *decisions ("What do we do?") are made in relation to each of the other facets.* Addressing "What are we doing here?" leads parties to make procedural decisions. Parties may make personal decisions about how to describe the situation ("What is this about?"), which personal interest has the highest priority ("What is important to me?"), and how much attention to give to the other's perspective ("What is important to other?"). Joint decisions are made based on how each party describes the situation ("What is this about?"), what their interests are ("What is important to self?"), and their view of the other party's perspective ("What is important to other?").

Fifth, the diagram symbolizes the characteristic of mediation that *the facets are all interrelated.* As consideration of the conflict unfolds, it is not just the case that "What do we do?" decisions are made in relation to the other facets, but the other four facets relate to each other as well. For example, components of the conflict may be described, interests may be revealed, and opportunities to understand the other better arise as parties are considering whether to proceed with mediation. Using the language of facets, "What is this about?" "What is important to self?" "What is important to other?" and "What are we doing here?" are all addressed in an interrelated discussion. Or, as a party is gaining clarity on personal interests ("What is important to self?"), a procedural matter may arise such as how to appropriately discuss a confidential matter between sessions ("What are we doing here?"), insight may occur about what the other party has been experiencing ("What is important to other?"), or further elaboration of the situation may be considered necessary ("What is this about?").

Role of the Mediator: No Longer "Stage Coach." An important issue in the emergent-focus model is how the parties move among the different facets of mediation. What is the role of the mediator? For the stage theorist, it is to ensure that the parties accomplish fully the tasks of each step in a particular order. Given that the facets of mediation, according to the emergent-focus model, are not considered sequentially and are addressed repeatedly at various times throughout mediation, the role of the mediator becomes somewhat different. It involves helping parties become aware of and take advantage of opportunities to address the conflict through the different facets of mediation as these opportunities emerge. The mediator recognizes that there is not a single flow of events in handling a conflict that all mediations must follow. The characteristics of the parties, their relationship, the history of the dispute, and the issues under consideration, among other factors, all influence how the mediation will unfold. The mediator pays attention to the opportunities for parties to consider each facet—to consider procedural matters, to talk about what happened, to elucidate interests, to consider the perspective of the other, and to make decisions—whenever these emerge.

The work of Bush and Folger (1994) helps to clarify the role of the mediator. The mediator attends to the moment-by-moment opportunities for empowerment and recognition that are presented by the parties in their interaction. The mediator acts using any of a variety of techniques that serve to bring to the forefront the momentary opportunity that exists. This intervention provides an opening for parties to consider or elaborate further on one of the facets. For example, party A may express confusion about the behavior of party B. This is an opportunity for empowerment of party A that may lead to further discussion of "What is this about?" and "What is important to other?"—which is also a recognition opportunity for party A. As another example, party A may repeatedly make the point that "my hands are tied—there's nothing I can change." This appears to be a request by A for recognition of a

personal situation. It is an opportunity for the mediator to invite elaboration that may lead party B to consider "What is important to other?" It is also an opportunity for empowerment of party A, as he or she considers the implications of that constraint ("What do we do?").

The Anomalies Revisited

Since consideration of the emergent-focus model of mediation resulted from the recognition of several stage model anomalies, it may be helpful at this point to revisit the anomalies described earlier. To what extent does the model address the issues raised by the anomalies? Each of the anomalies will be discussed from the perspective of the emergent-focus mediation model.

The first anomaly discussed was *parties sometimes need to return to previous stages.* Stage models describe a particular temporal ordering of activities in mediation, yet it is commonly observed that participants must on occasion return to the tasks of previous stages to deal with specific matters. The emergent-focus model removes any necessary fixed sequence of events, even though many mediations will continue to have a consideration of procedural matters as a common starting point. Thus it is a specific feature of this model that participants may address the different facets of mediation repeatedly and on numerous occasions. It is not necessarily "going back" in the sense of working with matters that were omitted in an earlier consideration. Rather it is addressing a question one may have considered before, either on the same issue or a different one, but with more background about the conflict and perhaps a different perspective. Thus, in the emergent-focus model, returning to previous stages (that is, returning to a facet previously considered) is not an indication of incomplete task accomplishment. Instead, it simply describes the natural flow of dealing with a conflict, which may be thought of as having a life of its own prior to, during, and after mediation.

Second, *parties sometimes take a different path.* Mediation participants may achieve satisfactory results without fully accomplishing the tasks of a particular stage or even by skipping a stage altogether. It is obvious from the viewpoint of the emergent-focus model that there is no predefined path for participants to follow. It is possible, perhaps even expected, that each mediation is different enough that consideration of the different facets will occur in a different order and with different emphases. It is even plausible that a particular facet is addressed minimally if at all.

Third, *the action isn't always visible to the mediator.* If the mediator's role is to guide the parties through the tasks of the various stages, how can important activities of the conflict occur outside the awareness of the mediator? According to the emergent-focus model, it is not necessary for the mediator to assess the parties' progress through stages. There are no specific tasks that must be accomplished in a particular order. Opportunities will arise to address the conflict through the different facets of mediation and the mediator

helps the participants do just that. The mediator understands, even expects, that private decisions have been made and that the parties have had interactions prior to mediation and will have them after mediation that the mediator does not and will not know about. If the parties are assisted in addressing the facets that emerge in the course of mediation, then the mediator has done the job.

Fourth, *mediator activities affect substance as well as process.* It is claimed that the mediator serves as a mediation process manager—yet many process decisions made by the mediator affect the substance of the dispute as well. This anomaly is not fully addressed by the emergent-focus model. It is true that without a particular set of stages as a guide the mediator is less likely to make procedural interventions intended to move parties in particular directions. And by placing decision making ("What do we do?") at the center of the model and intersecting the other facets, the model supports party participation in procedural decisions (ground rules, who goes first, how to deal with confidential matters, and so on). Another mediator process intervention that affects substance is the use of any of the communication tools available to the mediator. According to the emergent-focus model, the mediator is certainly free to reframe party statements in a way that encourages parties to think in different ways about the conflict. Operating under a stage model the mediator may be inclined to reframe statements in a way that leads parties toward mediator-defined good solutions. With the emergent-focus model, the mediator has no incentive to lead parties toward a particular solution.

Fifth, *the desired mediation outcome may differ for the mediator and parties.* The decisions parties reach are not always based on accomplishing the tasks of the various stages. It is clear from the emergent-focus model that the role of the mediator is not to guide the parties through the stages. Thus the mediator does not have the end in sight of an agreement between the parties that guides all the interventions. Instead the mediator assists the participants in addressing various facets of the dispute and in reaching whatever goals are present (or emerge) for the parties.

Finally, *good things can happen even without reaching agreement.* If the desired end state of mediation is agreement, as described by stage models, then how can party satisfaction with outcomes other than agreement be explained? The emergent-focus model does not incorporate a single desirable end product of mediation. Participants may want a formal written agreement. But it may also be the case that the primary goal is to feel that one's concerns are heard by the other. Perhaps a party wants the acknowledgment that he or she behaved in a way that was the best that was possible under the circumstances. Participant satisfaction seems to derive from actual outcomes that match desired outcomes. Agreement is not always a desired result and the emergent-focus model does not include it as a necessary outcome for a successful mediation.

Conclusion

Conceptualizing the mediation process as a sequence of stages through which disputing parties progress has served the field well. It has facilitated the identification and elucidation of the major activities associated with problem solving. It has provided a structure that has been used to guide research into the mediation process and mediator behaviors. It has served a useful heuristic purpose in the training of mediators.

But any model has limitations, and the stage model of mediation is no exception. Although it may represent the problem-solving activities that occur in many conflicts, it does not satisfactorily model others. For example, it does not embody disputes in which the participants are not necessarily seeking agreement. It does not characterize the frequently encountered situations in which the participants' preferred mode of addressing the issues is nonlinear or does not follow the prescribed sequence of stages. It cannot account for the satisfaction parties experience in mediation even when they do not reach agreement.

We believe that the emergent-focus model presented here addresses the concerns evoked by stage models. Furthermore, the model incorporates some aspects of stage models in that participants may engage in step-by-step problem solving if that is their desire.

At first appearance this conceptualization of mediation may appear to be confusing for the mediator. We have found, in practice, just the opposite to be true. The mediator is freed from attempting to monitor whether a particular stage has been satisfactorily completed, what stage the participants theoretically ought to be at, and what to do to move participants in the proper direction. By focusing on the here-and-now of the interaction, the mediator is free to help participants take advantage of opportunities that emerge for addressing the various facets.

The development of this model was stimulated by the work of Bush and Folger (1994) and is compatible with their view of mediation as a transformative process. Certainly their microfocus, their concept of the role of the mediator, and the party-directed (as contrasted with mediator-directed) approach are evident in this model. Bush and Folger, however, did not recommend that conceptualizations of the mediation process as developing in stages be discarded. We see this model, then, as one way to think about how mediation as a transformative process might be carried out in practice.

The model is consistent with an emerging theme in conflict resolution and in education that participants are capable of contributing substantially to their own growth experiences. It is not the role of the expert to do something *to* the participants but *with* them. Lederach (1995), for example, has developed this concept further in the area of conflict resolution training. He differentiates between what he terms prescriptive and elicitive models in the transfer of knowledge about conflict resolution. In the traditional *prescriptive* model,

training individuals and groups to deal with conflict is seen as a simple transfer of knowledge where the trainer is the expert who provides feedback to "correct" the trainees in the appropriate techniques. Through his extensive training experiences, Lederach has developed what he terms an *elicitive* model, where training is an adaptive process of mutual discovery and creation between trainer and trainees.

It is our hope that this model will stimulate further thinking and reflection on the entire mediation process. We were trained as mediators using the stage model approach and it has been difficult for us to think about the process in other ways. We have found that we have lapsed into references to "steps" or "stages" and "what happens next." But, as all mediators know, words are important in their ability to shape thought. As we have applied new metaphors to the events occurring in mediation, new insights have emerged that are beginning to transform our practice of the mediation process.

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