

**Transform Conflict:**  
**Mediation Resources for Buddhist Chaplains**



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### Abstract

The role of Buddhist chaplains is, in general, to assist people in a variety of circumstances often involving interpersonal and community conflict. People who request assistance from chaplains may assume that chaplains have special training for many kinds of service, including mediating conflict in a wide variety of situations. However, there is little information readily available for how Buddhist chaplains might use their Buddhist training to specifically help in mediation processes. This thesis offers introductions to several conflict mediation approaches that are related to Buddhist teachings, as means for mediators to help achieve social justice. An inspection of the history of U.S. mediation practices provides an understanding of some of the potentials in this type of conflict resolution. Building on recent developments in mediation theory, research and practice, Buddhist chaplains can apply Buddhist philosophy to a reexamination of the way conflicts are usually handled in the West, with the possibility of basic transformation of deeply rooted and adversarial approaches and with the possibility of using Buddhist teachings to help deal with inequality. The approaches and methods discussed here may be useful in mediation proceedings for people who subscribe to any spiritual tradition or none; most persons share some of the same deep interests in ideas of collaboration, community welfare, cooperation, shared fates and working together to achieve a more peaceful world.

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**Keywords:** Buddhist chaplains, conflict resolution, mediation, dispute transformation, understanding-based mediation, Insight Mediation framework, Nonviolent Mediation framework, Friends (Quaker) consensus or unity framework, circle process framework

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## Prologue

A man--we can call him Manny--came to the county courthouse to seek an order giving him some protection from his ex-partner and now “just neighbor” Jim, who, Manny felt, was giving a great deal of trouble. Manny said that he and Jim had been arguing all the time, there had been threats made, and Manny had even been arrested after Jim called police because a limb of one of Jim’s trees, overhanging Manny’s property, had been cut off by Manny. (I *trimmed* it,” said Manny, “and now I have a police record.”) On the basis of a written petition that mentioned the threats Jim had made to Manny’s safety, a judge granted Manny a restraining order.

As a volunteer in a victim service unit in the courthouse, several weeks later I called Manny to see if he had any questions regarding the restraining order he had been granted. Yes, he certainly did. He said that he wanted to drop the order. I told him that he would need to come to the courthouse and appear before a judge with that request, since otherwise the order (which prohibited Jim from contacting Manny or coming onto Manny’s property) would remain on the official record. Manny replied, “I was the mover and got the order, so I don’t see why I can’t be the lifter now.”

He said that life was now “a mess.” He and his ex-partner needed to sort out their belongings, but they couldn’t because of the restraining order. I asked him if he had tried to engage the assistance of a third party who could help with the redistribution of belongings, since Jim could not talk with Manny while the restraining order was in effect. He said that wouldn’t really help since he and Jim needed to be able to talk together to make decisions. “And we are still neighbors, even though we aren’t getting along.” He added, “The police haven’t been of any help, the courts aren’t helping. You aren’t helping. It’s just a big mess. I

want to sue everyone. How can I do that?” He sounded very angry at me, his neighbor, and the entire justice system. I said that I was sorry, but I could only provide information about restraining orders. He said, “But everything is a mess, I’m telling you. Things aren’t working and I don’t know what to do.” I again said that I was really sorry, that I could hear his anguish—but I couldn’t provide any legal advice. He responded, “But can’t you listen?! I just want you to understand!”<sup>1</sup>

There *are* other ways for Manny to be heard and come to an understanding with his former partner. Mediation might be an ideal alternative to traditional court proceedings for Manny and many others.<sup>2</sup> The suggestion in this thesis is that processes influenced and informed by Buddhism can provide practical methodology for mediation, providing Buddhist chaplains with many ways of assisting people caught in many kinds of conflict.

The role of Buddhist chaplains is, in general, to assist people in a variety of circumstances often involving interpersonal and community conflict. People who request assistance from chaplains may assume that chaplains have special training for many kinds of service, including mediating conflict in a wide variety of situations. However, there is little information readily available for how Buddhist chaplains might use their training to specifically help in mediation processes. (And what relatively little has been written about Buddhist-oriented mediation is often in sources not readily available.) While there is not a specific treatise or program of study of conflict in Buddhist literature, there are certainly

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<sup>1</sup> To protect confidentiality, all identifying facts have been changed.

<sup>2</sup> “New governance” processes also include e-democracy, public conversations, citizen juries, study circles and other forms of dialogue among groups of citizens. (Most of these are designed to foster small group conversations to share ideas for solving public problems and making policy. The emphasis is on collaboration rather than competition [Gazley et al., 2006].)

teachings in the extensive body of Buddhist teaching that point us to ways to approach and deal with conflict.

### **Why A Study of Mediation Frameworks for Buddhists**

For a dozen years, I have been a volunteer at a county courthouse, in a program to assist those who are called by the court, or who call themselves, “victims” or “survivors.” It is a program that is an important component of a formal justice system that exists as an independent branch of government with the mission to “protect the rights of individuals, preserve community welfare and inspire public confidence.” From my years in the victim service unit, I know that there are many judges and attorneys who are working long hours to fulfill that mission.

However, during these years I have also learned that many of the people caught up in the system wish that there were other options. Recognizing this, I have become involved with people interested in the restorative justice movement and in community mediation services (centers for dialogue and resolution)—that is, in alternatives to the traditional legal system.

My other work is as a teacher and researcher in communication, concentrating on what we know about practices and beliefs about how people talk and write and understand each other. As a Buddhist, I am particularly interested in the principles and practices of Right Speech<sup>3</sup>, or skillful communication. This thesis is my attempt to bring these interests and trainings together by considering what frameworks might be particularly useful for Buddhist chaplains and others who are interested in applying Buddhist principles to conflict resolution.

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<sup>3</sup> Roshi Bernie Glassman (2002) explains that “The word right...is not used in the usual dualistic sense of right as opposed to wrong....What do ‘right word or right speech’ mean?...Speaking spontaneously without the filters constructed by the mind, speaking with the whole being, just speaking—that is right speech” (pp. 49-50). The use of “Right” as in Right Speech is a legacy of 19<sup>th</sup> century scholarship/ translation.

The focus is on ways to mitigate conflict and, in particular, on skills, techniques, and insights to assist the transformation of adversarial-based processes to relationally-based negotiation.

Part of my own interest in looking at models or mediation frameworks that utilize, or are compatible with, Buddhist philosophy and practice arose because I found myself uneasy with the assumptions of some of the mediation models in the textbooks I was reading and studying. I could see that conflict, a form of suffering, is everywhere around us and I could see the general usefulness of mediation as a way to assist in returning to balance and equanimity, to happiness and gratitude. But not as evident were the ways that I could myself learn to function skillfully, as a compassionate mediator.

Historically, the focus in Buddhism, at least as it has been discussed in the West, has been primarily upon intrapsychic transformation and training. However, as socially engaged Buddhism and conflict studies become more integrated, we can expect to see more discussion of appropriate mediation frameworks (including those I describe below) that utilize Buddhist teachings, explicitly or not.<sup>4</sup>

I certainly am *not* suggesting that mediation approaches that seem to have nothing particularly Buddhist about them are of little value. In all mediation processes, the effectiveness of the facilitator at helping transform conflict will be dependent upon many elements including the amount of training and practice, the ability to establish a trustworthy relationship with the clients, and the use of an approach with which she feels comfortable. As

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<sup>4</sup> In my online searches for relevant material on *mediation* and Buddhism, I found that Google and Bing would constantly try to change my search to *meditation* and Buddhism. While there can be valuable connections between the practices of meditation and mediation, in terms of etymology they are not closely related, with “meditation” from an Old English word, “metan,” meaning, in part, an “act of continuous calm thought.” Mediation is often considered as the attempt to resolve a dispute through active participation of a third party (mediator) who assists participants in finding points of agreement or understanding, and assists those in conflict to agree on a fair result.

Gary T. Furlong points out in *The Conflict Resolution Toolbox*: “There is no magic formula that resolves all disputes....[W]e are not looking for a single model or framework that will make sense in every conflict in the world. Rather we need to be comfortable with a wide range of models that will help us in diagnosing different problems in vastly different circumstances, with different people” (2005, p. 11). One kind of dispute resolution process will not suit all facilitators or all kinds of conflict situation.

I *am* suggesting that all the approaches to conflict resolution are based on some (sometimes implicit) beliefs about humans and conflict. And I am suggesting that, particularly in pluralistic societies, uncovering and sharing information about the core and sacred values of facilitators and other participants make valuable contributions toward the ending of hostilities. As Heidi M. Tauscher, mediator, states, “Though traditionally ignored by mediators, religions hold a treasure of indispensable peacemaking tools and conflict--resolution strategies that can inspire openness, empathy, compassion, and imagination” (2004, p. 13; see also Tauscher, 2003). And I am further suggesting that Buddhism specifically offers some teachings that can be sources of very effective mediation practices.

We all work with conflict, often everyday—most people without any Buddhist or mediation training at all. However, since much conflict has to do with judgments, blame, and suffering, and since Buddhist chaplains know that a Buddhist worldview has longstanding and very practical things to say about those formations and the resolution of suffering, Buddhist mediators may feel most comfortable and skillful when using mediation approaches that are based on, or are related to, Buddhist teachings.

For this discussion, I deal with “everyday conflict” in our families, neighborhoods and workplaces, rather than with, say, corporate conflict, or conflict writ large, such as inter-clan



conflict and wars. (I also do not deal explicitly with mediation approaches aimed at cases of domestic violence, because that discussion would require another literature and analysis. Some of the basics of this discussion are in Marsha Lichtenstein, 2000.) These various kinds of conflict are related, of course, since the ways we respond to conflicts in our daily lives help determine how we deal with larger-scale conflict. In fact, Kenneth Cloke (2005) suggests that skills we learn as mediators are transferable and can be adapted to many situations and cultures, including conflicts overseas. Another well-known mediator interested in diversity and spirituality issues in mediation, David Hoffman, joins Cloke's outlook by advocating multi-disciplinary mediation practices, open to the knowledge of law, psychology and the various wisdom traditions. He suggests that in future mediators will be serving some of the needs that community elders served in the past (2006, p. 472).

### **Background of U.S. Mediation Practices**

Mediation did not begin here. If we look online and in our libraries for information on mediation, we might be inclined to think that mediation in the areas of community, labor and family conflict was a Western development, and yet mediation can be said to have begun in the East. One student of mediation history says that the Buddha may have been the "first documented transformative mediator in history" (Yuen, 2008, p. 4). There is at least a recorded legend about the monks of Kosambi who quarreled and brought about great dissension among themselves because one of their number had left in a vessel the surplus water for rinsing the mouth. Buddha had a difficult time trying to mediate the situation, but in one translation of the story he cautioned, "If the Sangha declares the re-establishment of concord without having inquired into the matter, the peace is concluded in the letter only. But if the Sangha, having inquired into the matter and having gone to the bottom of it, decides to

declare the re-establishment of concord, the peace is concluded in the spirit and also in the letter. The concord re-established in the spirit and in the letter is alone right and lawful” (Carus, 1989). Discussion of the importance and types of mediation has a very long history. Many ancient Buddhist manuscript, including a treatise on mediating disputes, have been recently found in cliff caves in the former kingdom of Mustang, now part of Nepal (Finkel 2012).

Before a discussion of how Buddhist principles and approaches could be useful in contemporary mediation processes, it is useful to have a brief review of how mediation principles are often conducted in practice. Conflict surrounds us, from disputes among family members to deadly conflict in wars; mediation and mediators are also all around us and have been for a long time. However, in the U.S. before the late 1970s when people wanted to explicitly mediate their disputes, they usually went to people known as psychologists, lawyers, judges, clergy, chaplains, teachers, and respected local officials or merchants. Most of those who occasionally practiced mediation had to rely on their own experiences, and analytical and ethical instincts and abilities, rather than on formal mediation training.

### **Litigation and Mediation**

During the past four decades, we have seen some major changes in the way conflict is handled in our communities in the U.S. Of course, we still have a strong, traditional, formal, adversarial legal system based on arguments, rights, rules, and facts, with experts such as lawyers and judges determining most elements of the process. However, we now also have some newer forms of processes that are being used in both private and public settings, with a greater variety of conflict resolution processes. The focus in this thesis is on mediation, whether it is, for example, addressing thorny problems for partners, siblings, colleagues and

neighbors, or working with organizational conflicts in neighborhoods, organizations and communities.

Mediation differs from conventional litigation in a number of ways. While the specifics may differ, in general in mediation the stakeholders or interested parties are invited to take part in the process; a broad outline of issues may be addressed; parties may select people who are sometimes called “neutral” facilitators to guide the process; a variety of approaches may be utilized; and outcomes are usually by consent rather than imposed (Menkel-Meadow, 2002, p. 53). The often-stated benefits of mediation in comparison to litigation include usually less time and therefore fewer costs, confidentiality, increased control of the parties over the solutions with higher compliance with the agreement, a mutuality which can preserve earlier relationships, and support of a mediator to help participants think “outside the box” for possible solutions.

Mediation services are available in the private sector, through community-based mediation services, and in many courts. In community programs, often two trained mediators (who may be volunteers) are assigned to each case. In the private market, people select their own mediator. In court programs, a mediator is usually assigned to a case unless the participants select someone on their own. In practice, the parties participating in the mediation process, regardless of their positions and the outcome, are generally more satisfied with the process and the “fairness” of the process than are those parties who are subject to traditional court decisions (Hedeen, 2004; Wissler, 2004).

Mediation is generally used as a less formal, less regulation-bound means of encouraging freer discussion, followed by consent and agreement, with both or all parties participating more freely in the process and the agreement. In addition to lawyers and retired

judges, many community activists have become involved in facilitating resolutions, increasingly working from the understanding that emotions, feelings, and belief systems are involved in conflict, and that some disagreements can best be worked out through consensual agreement that maximizes the gain of the parties involved and depends, in part, on the skills of a third-party facilitator. Also called collaborative problem solving, consensus building is work with a skilled facilitator toward a mutually acceptable agreement among the parties who have been in dispute. (See Menkel-Meadow [2002] for an historical and theoretical discussion of consensus building and other mediation processes that are being formatted and used when the traditional format of parties lining up on one or the other side of a “Jones v Jones” disagreement does not best serve the parties or the community. Also see Menkel-Meadow [1996] for a discussion of how the adversary system is not only inadequate but even dangerous in many circumstances.)

### **Mainstream Mediation**

In the early days of recognized, formal mediation in the U.S. in the 1960s and 1970s, the type of mediation practiced now called “facilitative mediation” was designed to assist parties in reaching mutually agreeable resolutions. In this approach, the mediator asks questions, searches for interests beneath the positions taken by the parties, and assists them in setting forth and analyzing options for resolutions. The mediator is in charge of the process, but the parties are in charge of the outcome (Zumeta, 2012).

While there are now many models or frameworks of mediation in use in the U.S., the most prevalent is the “interest-based” approach, set forth by Roger Fisher and William Ury (1981) in their popular book *Getting to Yes: Negotiating Agreement Without Giving In*. This book, which emphasizes the parties’ *interests* in a negotiation rather than their *positions*, has

been used by many professional mediators and also by many school administrators who have adopted it to help students understand non-adversarial bargaining. A second edition in 1991 (with co-author Bruce Patton) has been one of the longest “Running Best Sellers” in paperback business books. When Roger Fisher died recently, *The New York Times* reported that *Getting to Yes* has been translated into 36 languages (Kaufman, 2012). The authors of the second edition advocate four primary principles of negotiation: separate the people from the problem; focus on interests not positions; invent options for mutual gain; and insist on objective criteria. This approach draws on rational, liberal philosophies of human nature, with self-interest understood as the basis of conflict, so mediation focuses on ways of meeting the interests of all parties. The authors use martial arts (jujitsu) as a metaphor for how the skilled negotiator works.

More recently, people have used more relational approaches, drawing from philosophies that understand humans as connected to each other. The “transformative” approach (Bush & Folger, 2004) (linked to a relational rather than an individual worldview), and the “narrative” approaches (Winslade & Monk, 2000) are increasingly widely used approaches to conflict intervention. Another important development has been the work of the Mennonite Church, at the forefront of the restorative justice movement, with publications and mediators emphasizing principles of personal salvation and peacemaking. Though restorative justice became more secularized in the 1980s and 1990s, many of its core principles are based on Christian beliefs about forgiveness and healing. Some authors describe approaches or styles as “facilitative” (with mediators assisting the participants in gaining clarity and building communication) or as “evaluative” (with mediators giving direction and expertise). Yet often mediators do not describe their own approaches or label their approaches accurately, as

perceived by observers. For example, even mediators who indicate that they use directive strategies do not name their approach as directive, and those who indicate that they use evaluative strategies do not define their approach that way. That is, there is little consistency between the labels that mediators give their style or approach and the actual behaviors they practice. Further, studies of mediators (Charkoudian, De Ritis, Buck, & Wilson, 2009) have discovered that while mediators may self-report that they use a combination of directive-type strategies and elicitive strategies, in actuality in any observed mediation case they tend to use mostly one or the other. Mediators seem to shy away from terms such as directive and evaluative even when using approaches that the other practitioners and theorists define in those ways (Charkoudian *et al.*, 2009). As a literature review makes clear, various methods of classifying mediator approaches and styles have been used by authors, and there is no agreed-upon vocabulary used to describe mediation approaches.

At present, many types of mediation facilitator training programs are available through community mediation centers, mediation organizations, private mediators, and law schools. Most states require the completion of a basic mediation training course (often 40 hours) before a person is able to take a formal role in mediating community and civil disputes. The basic course usually includes descriptions of several conflict analysis models as well as practice sessions employing the models. Recognizing that conflict and mediation occur in many vastly different situations and that individual mediators will feel comfortable with quite different ways of conducting sessions, particularly as mediators become more experienced, the courses (and mediation textbooks) offer a variety of models or frameworks to help practitioners work with conflict situations.

### **Community Mediation Paths**

Community mediation in the U.S. has grown along two parallel paths, with somewhat differing philosophical bases. One path evolved from the social and political activism of the 1960s and 1970s, with advocates interested as neighbors serving neighbors in resolving conflict, while another path evolved out of efforts of advocates, within and outside government, to reform the justice system (Bradley & Smith, 2000). The first path resulted in the establishing of community-focused centers (such as the San Francisco Community Board Program founded in 1977). The early community mediation advocates were interested in establishing neighborhood justice centers that were citizen-run, to address disputes before they entered the legal system, to prevent and de-escalate conflicts, to develop indigenous leadership for neighborhoods and communities, and to relieve community tensions by strengthening the abilities of neighborhood, churches, schools and social service organizations to address conflicts. The vision of the advocates of community centers was to provide a truly alternative system in order to keep many disputes out of the courthouse (Bradley & Smith, 2000; Hedeem & Coy, 2000). As one mediator trained in the San Francisco Community Board program model told me, the intent was to train people in the neighborhood to serve those in the neighborhood, to help people accept responsibility for part of the problem, and thus to empower the people rather than the judge (Anita Engiles, personal communication, November 13, 2012).

The second path has been to reform the court system by introducing mediation diversionary channels and thus increase the efficiency of processing, for example, small claims disputes; reduce costs; improve the quality of justice; and allow judges to provide more attention to cases on the regular docket. One of the effects of the development of this path has been to professionalize mediator services and to construct a relationship with justice

agencies. (See Raymond Shonholtz [2000] for the history of the paths and an assessment of the tensions and changes in mediating methodologies to address a broad range of issues and disputes.)

These diverse conflict management services have grown for all the reasons above. (The William and Flora Hewlett Foundation also played a substantial role in developing and supporting the field of conflict resolution from 1984 to 2004, providing grants of more than \$160 million to more than 320 organizations [Kovick, 2005].) However, an additional reason for the increase in the use of ADR (Alternative Dispute Resolution) has been suggested: The interest in compassion—that is, the concern for processes that are not only less costly and more streamlined and efficient but that are also kinder on those who participate. Advocates of ADR processes are less likely to talk about “justice” and more likely to talk about resolution, conciliation, and healing (Calkins, 2008). During the 1980s, many advocates of both of these paths were interested in establishing “multidoor courthouses,” where people seeking conflict resolution assistance could find available traditional justice services – and various other types of mediation programs as well (Hedeen & Coy, 2000). In the past few decades there has been a rapid growth of the use of trained mediators to resolve conflicts, along with a growing awareness of the importance of training for mediators (Boulee *et al.*, 2008, pp. 301-303).

While these two paths continue separately--with different orientation and emphasis--they sometimes run fairly close together. In 2011, there were approximately 400 community mediation programs, most of them having moved from an earlier focus on neighbor-to-neighbor conflict to a broader community-based focus not on the parties' proximity but on the potential that mediation services could enhance an outcome. Most of the community



mediation services rely heavily on trained mediation volunteers, many who are not lawyers. Half of the programs receive half of their cases as referrals from the court system (Corbett & Corbett, 2011).

Some analysts suggest that community mediation as a social movement has been co-opted as it has become more closely linked to the court system and institutionalized (Coy & Hedeon, 2005). As a social activist concerned about the many problems of our towns and cities, and interested in the kinds of philosophies and actions that can help bring about a kinder, more connected society, I have a great deal of interest in local control over the practice of mediation, and in broad community access to services. However, for this paper I have looked into many of the branches of the mediation paths, searching for frameworks that might best serve Buddhist chaplains working with people in conflict.

### **Inequality in Mediation Processes**

In the literature on mediation there seems to be an (usually implicit) assumption that the mediator, to be responsive to the needs of the different parties, should be an *unbiased* facilitator, assisting the parties in conflict at arriving at resolutions that are fair, practical, and mutually acceptable. To this end, a mediator needs to learn good listening and communication skills as explained by approaches such as the ones highlighted in this thesis.

Some of the new approaches, in particular, ask for more responsiveness to the needs of different parties and conditions than has been deemed necessary in the past. And yet ... we have evidence that mediation has often failed to provide a fair and empowering experience for all (Wing, 2008), in part because mediators may assume that there are universal patterns of behavior, explanation, and understanding, ignoring or not being aware of cultural, gender, age, racial, socioeconomic, and institutional differences that participants bring to the table.

Or mediators may think that the parties themselves are responsible for raising concerns and choosing their outcomes, since a fundamental tenet of mediation is the self-determination of all parties. Some mediators may fear that their neutrality stance will be violated if they attempt to address imbalances of power (Wing, 2008).

*Can Buddhist mediators bring particularly useful perspectives and skills to deal with the inequality that often occurs in mediation?* Buddhists are not, of course, immune to what Bernie Glassman refers to as creating clubs, inviting some people in our clubs who have the “right answers” and with whom we are comfortable with, while excluding others (the “they”). Yet, he points out that for Buddhists who live with the basic principle of the interconnectedness of life, the question necessarily arises Who is this “they?” He states that it makes no more sense to form “we” and “they” groups than it would be for our fingers to say to the foot, “I know the right way to do this,” while the foot argues, “No, I know the right way,” while the tongue says, “I know the right way,” and the ears say, “I am going to heaven and the rest of you are going to hell” (Glassman, 2012). Buddhist philosophy puts much stress on the concept of our oneness and on compassion for all. In addition, there are other Buddhist principles that can provide valuable guidance in mediation practices working toward equality. For example, Buddhism is a non-divisional philosophy or religion; inherently there is no male or female.<sup>5</sup> Other teachings particularly pertinent to mediation practices to resolve conflict are mentioned in the section below on “Buddhist Perspectives on Conflict.” Buddhist chaplains, in mediation service as well as in other actions, may seem to be well-suited to addressing issues of inequality.

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<sup>5</sup> We can note, however, that, on a relative level, women’s voices have been conspicuously muted in the Buddhist world through the centuries--with a gradual redress of the gender balance occurring particularly in the West in modern times.

However, we are all creatures of our cultures, and most of us may not be aware of how deeply we are affected by the cultural and political views around us, including the legitimizing of certain inequities. As mediators, we need to not just listen carefully, but to listen particularly carefully to detect indications that participants think that the dominant position in the dispute resolution is ignoring some other viewpoints. Otherwise, the process may reproduce the exclusion and inequality that some participants are experiencing in the community and society. Mediators may well begin the discussions by reminding the parties that conflict resolution provides the means and opportunity to resolve their dispute on their own and to that end each party will want to be sure that they are understood. That is, mediators can call attention to possible variation in the cultural makeup of individuals in dispute that may lead to differences in the way parties understand the problems being addressed.<sup>6</sup> In fact, mediators can point out that there *will be* variation in the cultural and cognitive make-up of all individuals (Berovitch & Foulkes, 2012, p. 29).

But even if we point out that self-determination is at the basis of conflict resolution, this does not mean that all parties are able or willing to articulate their world-view, particularly if they don't think the mediator and other parties can, or will be interested in trying to, understand or address inequalities. Participants may self-censor if they realize that their world-view is quite different from the world-view of others in the room.

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<sup>6</sup> Educational materials from the Danish Centre for Conflict Resolution (which has set up a sister center in Dharamsala) suggests we learn to differentiate between cultural conflicts and other conflicts (such as conflicts of interests), to be aware of the potential emotional vulnerability present in intercultural conflicts, and to be aware of available mediation tools coming from the non-violence tradition and from research in intercultural communication (n.d.)

For starters, an overwhelmingly white Anglo mediator pool increases the possibility of isolating minority participants unless specific action is taken to address potential problems. Buddhist mediators may well be ready to take very seriously the stance of “not knowing,” or of assuming inequality rather than equality and of looking for a counter-narrative, especially if parties are from non-dominant social groups. Another option might be to assign co-mediators, one of whom shares the same racial or ethnic group, for example, of each of the participants. Another possibility might be to avoid trying to “match” mediators and participants by assigning a mediator who does not share an identity group with any party (to avoid the financial cost of co-mediation in situations when cost presents problems) (Charkoudian & Wayne, 2010). Mediators may well want to establish an explicit common behavioral code (e.g. about avoiding interruptions, taking turns, not accusing or name calling) that may differ from both of the parties’ native behavior but allow for constructive dialogue. To do this effectively will necessitate that the mediator be as knowledgeable as possible about the participants’ assumptions about how a dialogue should sound, in order to ensure that the strategies are appropriate (Bercovitch & Foulkes, 2012).

Given the huge problems of inequalities in the U.S., we cannot expect to quickly solve the problem of how to create a “fair” environment for all participants in mediation sessions. However, our first step as Buddhist mediators can be an acknowledgment to ourselves of the ways that our behaviors and assumptions in mediation processes may reflect the dominant culture’s paradigm with major consequences regarding the “fairness” of the process and the outcome, and the satisfaction of the parties.

### **Why A Wide Range of Frameworks Needed**

As the material on inequality makes clear, the mediation process, to fit the needs of the participants, cannot be a fixed, determinate set of practices to resolve conflict, dissociated from the particular setting, local religious and political expectations, or current social struggles. While mediation is often thought of as a process to engage disputants in a process of interpersonal inquiry; to enable them to set the terms of their own mutually satisfying resolutions; and to provide speedy, nonlegal, and inexpensive alternatives to litigation, there is no one method to do that for all situations. What is needed in any particular situation changes, subject to the relationships of the participants, local religious and political expectations, and current social struggles, as well as to the needs of the participants at the moment. In writing about conflict resolution and Buddhist practices, Ray Parchelo (2008) states that it is not just that mediators need to be comfortable with a wide range of models to help with conflict resolution. Buddhist teachings suggest that we can usefully become comfortable with a wider range than the usual Western ways of understanding the nature, causes and responses to conflict. Bernie Glassman adds to this discussion,

I use the metaphor of a carpenter. The carpenter has a bag of tools that he has accumulated over his lifetime. Somebody calls and says there is something wrong with their door. Coming in from a standpoint of knowing would be like having your hand stuck to a particular tool. Maybe it's stuck to the hammer, so you come and start banging away at the door. The not-knowing stance is that you come with all these tools, and you bear witness to this door. Where is it sticking, what is the problem? Then you pull out the right tool. (quoted in McLeod, 2004)

As Buddhist chaplains we need not look for one best technical approach. The situation will help us determine what best serves the needs of those experiencing conflict. Donald

Rothberg and Hozan Alan Senauke (2008) provide some overall advice on the importance of being flexible when working to transform connections and societies: they write that the intent of engaged social Buddhism “is to transform ourselves as we transform all our relationships and our larger society. It is to work at times from the inside out and at times from the outside in, depending on the needs and conditions. It is to see the world through the eye of the Dharma and to respond emphatically and actively with compassion” (para. 1).

While there is no single, formulaic way of doing this, there are many possibilities. And there is a common concern throughout the sources. For example, good communication skill is considered critical to all methods and can be considered as a primary skill to be learned. However, as we can see from the models described below, the kinds of communication skills needed are linked to larger ideas about the conditions of people and conflicts. Because of this, I find it more useful to deal with each approach separately, showing the links between recommended communication skills and mediation theory, although some practitioners may want to combine some of the approaches for various stages of mediation. (After the introduction to five separate approaches, I do mention some general skills that can be used with them all.)

All this suggests that mediators might do well to try to be very clear about what approach they intend to use in any situation--not to constrain their employment of features of any other mediation process, but so that clients understand, as much as is possible, the basic assumptions of the mediator and the responsibilities of all involved. Mediators now have available many books and articles that discuss models, techniques, and strategies--so-called toolboxes. The organization and terminology of these sources suggest that what is needed is a formula for mediating conflict, and indeed there are tools, skills, and lessons that can be

explained and learned. However, the word “tools” perhaps doesn’t make clear that there are principles involved in how a mediator works. So I will use “approach,” or method” or “framework” to distinguish the systems described in this thesis. Let me be clear: It is not simply a matter of just casually picking any one outline of actions to apply to a mediation session. One approach may deal with issues of self and identity, and thus, for example, focus on to helping the participants “save face.” Another approach may start from a belief that our ego, our sense of self, is an illusion, and in this case the mediator would likely model and invite participants to use different communication skills.

In all of this exploration we can see ways that Buddhism can be used in the “public interest.” Kenneth Cloke (2009) writes, “The opportunities for integrating Buddhist awareness, insight, and contemplation practices into dispute resolution, both personally and professionally, are limitless” (para. 29).

### **Spirituality in the Mediation Process**

Some mediators might object to any spirituality or religious<sup>7</sup> aspects being drawn into the mediation process, suggesting that we should pay attention to rational problem-solving approaches and democratic, empirical methodologies. Especially given current tensions in the world, religion is assumed by many to have a negative effect on the resolution of conflict—and is perhaps a primary *cause* of conflict—so few mediators discuss (at least

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<sup>7</sup> Although there are differences among some of the ways that “religion” and “spirituality” are used, the terms are often used interchangeably. Here, I use either the terminology of the authors cited or the terms “sacred” or “core” values which may deal with morality, fairness, wisdom of past generations, a sense of something greater than oneself, or other ideas about “justice,” reciprocity, and collective identity. We can note here that Christianity is the dominant religion in the U.S., and other religions (i.e. Judaism, Islamic religion, and Indigenous practices and beliefs) have, at times been stigmatized, ostracized and criminalized (Transformative Justice Law Project of Illinois [n.d.]).

openly) the effects of spirituality or religion on the mediators themselves or on the other participants. However, as Scott Atran and Robert Axelrod (2008) point out, appeals to sacred values can motivate both war and peace, and both exacerbate conflict and heal ruptures. So an issue for conflict resolvers would seem to be to determine how sacred values can be used to facilitate conflict resolution. But how to do that is seldom spelled out. In a review of the literature about how people cope in stressful situations, Jacob Bercovitch and S. Ayse Kadayifci-Orellana (2009) found that very few studies have dealt with the impact of religion and spirituality on how adjustments are made during times of trauma and conflict.

This is the current situation although we know that individuals' religious and spiritual beliefs and habits provide them with ways of understanding how to deal with stress, intimacy, problem solving, and ways of relating to others (even if many of us may have a difficult time directly expressing our basic values). In discussing "healing justice," David Loy (2001) points out that questions of fairness and justice cannot be separated from the religious perspectives they historically derive from. Our ideas of fairness, crime, punishment, and reform are closely tied to religious views about sin, judgment, and forgiveness, and how we should relate to each other. Our ideas about these are part of our worldviews.

The standard advice and custom that negotiators should try to avoid or ignore sacred or core values also seems unfortunate given the meaning these values may have for the people involved in conflict. And that standard wisdom would seem especially unfortunate for Buddhist mediators who wish to try to hold to the concept of loving kindness that transcends preoccupation with one's own concerns while engaging in service to others.

As Eileen Barker (2007) has pointed out, "in the land of conflict resolution, logic, reason and intellectual analysis will take you only so far" (para. 3). Mediation processes supposedly



provide a common ground for working out disputes--but if we know little about what can establish inner peace for the participants, then the mediation is unlikely to foster mutual respect and understanding. Even if people leave a mediation meeting with a settlement (after, perhaps, some “trade-offs”), the parties may continue to feel “in opposition,” with some hostility remaining toward each other, the facilitator, and the entire system. Yet if, as Buddhism and many other spiritual traditions teach, we are all interconnected, then it is especially important that we confront fears and processes that turn us away from feeling connected. As mediators, we can strive to assist disputing parties to become aware of underlying core values of participants as well as interests and needs—rather than focusing only on conflicting desires.

### **Buddhist Perspectives on Conflict Resolution**

Many mediators have gone to the fields of law, psychology, and counseling for guidance in mediation processes. Yet, Buddhism has many peacemaking and conflict resolution strategies that can promote openness, fairness, compassion and insight.

Before describing five mediation frameworks that are related to Buddhist philosophy, I briefly discuss some Buddhist perspectives that have particular relevance to conflict resolution.

Many of us in the West have grown up with concepts of human rights and with the rhetoric of the right of individuals to be free. We have also grown up with concepts of justice that come in part from ancient Greece, the Old Testament, and nation-state regulations and reparations through the centuries. Ideas about justice depending upon such concepts as independent origination and upon an eye for an eye kind of proportional punishment are often strongly held--as are notions about equality and fair rules, and life as a race or

competition. Buddhism is more concerned with general as well as individual good. In Buddhism, this good lies not primarily in the area of individual property rights (although these are recognized), but in the realm of individual and social spiritual improvement. (Still, any attempt to make the various ideas about conflict resolution seem diametrically opposed should be resisted. In both Buddhist and Western tradition there is, for example, some correspondence with “the wisdom of Solomon” [“Towards Buddhist Social Theory,” 2005, para. 4].)

David Loy (2000) points out that the Buddhist approach to punishment and justice cannot be separated from its understanding of human psychology and of the relationship between individual and society, and of its vision of human possibility. Such issues are, he points out, always bound up with religious and philosophical views and customs. The Buddhist view of human nature does not presuppose a unitary soul or subject, but understands a person to be a composite of unwholesome and wholesome tendencies, with the possibility for all to understand and to be in harmony with all. Loy suggests that a Buddhist approach sees “justice” growing out of mercy, not out of fear. (As Loy points out, many Christians would have the same approach. Some Quakers and Anabaptists, for example, have been very active in the restorative justice movement [Loy, 2000, pp. 164-165].)

There are, of course, many lists and explanations of “principles” in Buddhist literature, and I can’t even summarize the summaries here. But I can list some basic teachings that seem particularly important in dealing with the nature of conflict and the ways out of conflict. For guidance with this, I go to Roshi Bernie Glassman, who started the Zen Peacemaker Order, and, in his practice of engaged spirituality, is continually working to assist people in making peace with themselves and families, while also committed to making peace in communities,

and war-torn countries. Here are some highlights of his teachings in one of his books on making peace. (Unless otherwise indicated, the material comes from Glassman's 1998 book *Bearing Witness: A Zen Master's Lessons in Making Peace*.)

### **Making Peace**

The role of the peacemaker is to make whole; making peace *is* making whole. We can think of QuanYin, the image of compassion, an image now shared by practitioners in many countries. She/he has a thousand arms since she has taken a vow to make peace among all sentient beings, a multi-armed task indeed. Roshi Glassman suggests that we can think of each of her hands holding something different—a pen, a hoe, or another tool—something different for the proper occasion.

Making peace is often not a quick process. An assumption of many of us in the U.S. is that we have to fix problem right now! We have been taught that the sooner the better, whatever the long-term implications. Glassman, rather, says we don't have to figure out solutions "ahead of time." We bear witness, we listen--and loving action, right action comes. Ram Doss and Paul Gorman (2000) point out that we often think that we need to "fix" things, and "right now," in part because we want to get rid of our pain or get rid of someone else's pain because it is hurting *us* too much. The Dalai Lama has pointed out that wanting the fastest result is a sign of impatience, and that only through patience can one overcome the obstacles to compassion (1997, p.1). The principles of the Zen Peacemakers also can help us as mediators to caution against attempts at quick fixes.

### **Recognizing Interdependency.**

Buddhism teaches that all life is interrelated. All beings and phenomena exist or occur only because of their relationship with other beings or phenomena. The inter-being of life is a

basic Buddhist principle. Basic if difficult to keep constantly in mind. Even if we know on some level that we are interdependent, many (most?) of us do not function from that knowledge much of the time. Our brains operate dualistically: I am myself and others are--well, others, separate from me. (Glassman suggests that many of us come to spiritual practice in order to bring the pieces back into a whole.) Much of the time when we do concern ourselves with our oneness, we pick and chose those we feel can be included in that concept. Perhaps it is everyone—oh, except rich people. Or everyone—oh, except those who don't share our beliefs about abortion. Or everyone—except those who let their dogs roam onto our lawn.

The self as a separate, independent and fixed entity is a common assumption in much mediation work. While there is some (growing) questioning in current Alternative Dispute Resolution (ADR) literature of the concept of the individual as a separate being, most mediation participants and processes still begin with the assumption of separate, vying individuals. Mediators are sometimes cautioned that issues of self and identity are profound in conflicts and that it will be a major job of mediators to work with people who are vying to get the best possible outcome for themselves, with little concern for others in the conflict. As one dharma instructor cautions, conflict resolution is sometimes seen in Western psychology as “a kind of lubricant for a noble and human process—self-fulfillment” (Parchelo, 2008, n.p.).

Bernie Glassman uses the metaphor of the body to explain our oneness. My right hand doesn't attack the left unless there is an illness that makes my right hand believe it is separate from the left. If my stomach is hungry, my right hand doesn't say it is too busy to put food in

my mouth. If my right hand is burned, I don't write a tome about how unfair it, I take care of it.

That is, we are all linked to and are the conditions of each other's existence. In Thich Nhat Hanh's words, our lives are "inter-are": "Without a cloud, there will be no rain; without rain, the trees cannot grow; and without trees, we cannot make paper. The cloud is essential for the paper to exist. If the cloud is not here, the sheet of paper cannot be here either. So we can say that the cloud and the paper inter-are" (2007).

The Dalai Lama (2002) points out that each of us validly has a sense of "I," a body and mind. The problem comes when we exaggerate our sense of ourselves or assume an independency (p. 149). We can realize that, particularly as Westerners, we have been encouraged to consider a self and self-esteem as necessary for our psychological health. (See Madden, 2010, for a discussion of the ways that conflict grows out of the three poisons, and ideas about self.) If it is the nature of Westerners to be focused on the self, and if it is the nature of unenlightened humans to be afflicted by craving, malice and delusion, then all of us are somewhat "mad," and there will be mischief, crime and conflict (see Loy, 2000, p. 155). We can think of the concept of separation as an illness in society; if we don't see the unity of life and don't take care of life, we all suffer.

Related to the assumption that individuals are isolated, the assumption that "some are going to win and some lose" is so prevalent in our U.S. approaches to conflict resolution that it needs special attention. Most of us learn in school and elsewhere that we need to compete to get what we want. Buddhist teachings can, of course, indicate another perspective that can turn attention to how all can benefit from community conflict decisions. Seeing that there is no essential difference between ourselves and others is the ultimate sense of community.

This change in perspective is happening with many mediators, if not perhaps as commonly with disputants.

Ram Dass and Paul Gorman (2000) acknowledge both this common societal problem of self-interest and the need for a shift when they write, “All of us seem to be born into the experience of separateness.... As happily and healthily as we may function within it, the degree to which we believe ourselves to be individual, isolated entities has consequences for how we care for one another.... What we have to offer others will come from our sense of unity” (pp. 21, 22, 38). In writing about mediation practices in particular, Ran Kuttner (2008) states, “The Buddhist framework offers a radical critique and alternative to the category of ‘self’ that has potential to transform an adversarial mindset in which each party takes sides, fortifying his or her own separate, independent positions” (p. 104).

Compassion means finding common ground with others, and replacing our self-centeredness with other-centeredness. Shantideva tells us that if we really practice patience we will begin to see our “enemies” as our friends, as spiritual guides providing us with very useful lessons (Dalai Lama, 2002, pp. 74-75).

The teachings of Buddhism can help us begin conflict resolution working from the premise that much of our misery actually comes from self-centered ways of thinking. Being *self-compassionate* involves being open to, and understanding of, others’ pain as well as one’s own. A non-judgmental approach can help us see our experience as part of the human experience.

### **Acknowledging Diversity As Our Friend**

In another teaching related to making peace, Glassman states that diversity is the other side of oneness. When we encounter someone who doesn’t look like us, doesn’t speak like

us, and has different customs, we often begin a slow process of dehumanization. Such a person is not quite good enough to be considered as human as we are. Many wars seem to be due to religious differences, as groups of people, each of whom may believe in oneness, are fighting each other. We are most concerned about the unity we wish for, which may be a “unity” that looks and acts like ourselves. We may have standards that cause us to be intolerant of others.

In honoring our diversity, we can discover our oneness. We don’t need to lose our differences. As Glassman points out, we can retain all our differences —Buddhist, Jews, Chicanos, Germans, for example—and still work in harmony. He writes about Indra’s Net, with each pearl reflecting its neighboring pearl and all the pearls, the entire net. Each person is our diverse universe. This does not mean that we need to accommodate every form of life, or that we don’t try to choose words and other actions that will create the least harm to the system. It does mean, as Glassman writes, “that everything and everybody must be taken care of” (p. 51).

Unfortunately, in many conflicts dichotomies are thought to be a basic element of life and thus of conflicts involved in mediation situations. A separateness is assumed in many community conflict situations that focus on individualism, and on rights and wrongs. Confrontation is often thought a good or necessary tactic to resolve a problem in Western mediation, employing verbal or behavioral strategies to overcome one’s opponent. A possibility, offered through Buddhist teachings, would be to use a more non-linear, non-dichotomous pattern of communication.

While in traditional jurisdiction there is guilty or not guilty, in Buddhism the understanding is that the orientations and views we have stem from particular perspectives

that are limited. Instead of viewing the world in terms of “good” versus “evil,” “liberal” versus “conservative,” “us” versus “them,” Buddhism recognizes that the orientations and views humans take stem from particular perspectives, that each produces its own conclusion. We can’t pretend that power misbalances will necessarily be mitigated or deleted with the presence of a mediator even if some books and articles mention the importance of the mediator being “neutral,” as if that were a possibility.

It is useless to pretend to be a “neutral mediator,” keeping your emotions at bay—in fact, imagining that one can do that likely means that the mediator will fall prey to them. Issues of race, ethnicity, class, gender, and sexual orientation may be affected by the stance taken by a mediator (whether consciously or not), and by the balance or imbalance of power among the participants. Most models available to mediators do not explicitly address power imbalance. Buddhist teachings can potentially help all of us deal with the problems implicit in the identification through a characteristic, such as race.

### **Recognizing That Everything Is In Change.**

Another Buddhist teaching useful to mediators is that not only are we different from each other (life in all its diversity), but, as Glassman reminds us, everything is different from one moment to the next. Nothing is permanent, endless or unchanging. Change happens. It may be the emotional separation from our best friends, a continuing argument with a neighbor, a division among family members during the settling of a will, a division of opinion among the caregivers of a sick dog, disagreement about noise levels in neighborhoods. There *is* impermanence. Conflicts are inevitable and often painful--but they can also be fruitful. We can learn to handle them better, realizing that our suffering arises from the ways we try to separate ourselves, by grasping, pushing away, or ignoring.



### **Realizing That We Don't Know**

For Buddhists in dealing with conflict, there is a focus on deepening understanding of all involved, so that all parties gain insight into their needs and purposes and see that they are not different. Any Buddhist approach would attempt to move toward mutual understanding that can transform purpose and choice. One way of doing this is with the help of the Peacemaker's tenet of "Not knowing" -- giving up fixed ideas about ourselves and the universe. Even as we gather knowledge and experience, we need to keep realizing that we learn the most when we are in a state of unknowing.

Bernie Glassman writes, "As soon as we know something, we prevent something else from happening" (p. 67). That is, our ideas about what should happen prevent us from seeing what actually does happen. And then we get distressed because our expectations aren't met.

### **Understanding That Others Are Not To Blame**

Bernie Glassman writes that one of the hardest peacemaker vows is that of not blaming others. It is, he says, very human to deny responsibility for our actions, and put the responsibility on others. The Dalai Lama points out that anger arises when we feel hurt, unfairly treated by someone. If you decide to take a strong countermeasure against the person you feel has harmed you, it *may* be out of consideration that if that person continues such actions it will be destructive for him, and that anger has the capacity to be compassionate. But if you want retaliation, it is likely to destroy one's calmness of mind (2002, pp. 11-12). In his book *Healing Anger: The Power of Patience From A Buddhist Perspective* (1997), the Dalai Lama focuses on Shantideva's eighth-century *Guide to the Bodhisattva's Way of Life*, pointing out that the techniques presented in that work are relevant to individuals who do and do not subscribe to Buddhism as a personal religion. Shantideva approached the subject of

patience and anger in many ways, demonstrating with a variety of (linked) arguments that actions of people and events are brought about by a network of many factors. Nothing arises in isolation. Blaming others, getting angry at others, just puts off coming to an understanding of connections. Shantideva writes:

(22) As I do not become angry  
 With great sources of suffering such as jaundice,  
 Then why be angry with animate creatures?  
 They too are provoked by conditions.

Further he states:

(62) --Surely I should be angry with those  
 Who say unpleasant things that weaken other beings'  
 [confidence in me]—  
 But in the same why am I not angry  
 With people who say unpleasant things about others?

(63) If I can patiently accept this lack of confidence  
 Because it is related to someone else,  
 Then why am I not patient with unpleasant words  
 [about myself]  
 Since they are related to the arising of disturbing conceptions?

Yet, many books on conflict and negotiation suggest that expressing (“venting”) anger relieves tensions and allows parties to move quickly to productive methods of conflict resolution. For example, some alternative resolution advocates consider the expression of anger as necessary and beneficial since venting for all participants can serve as a

measurement of the emotions involved that must be surmounted before the underlying issues can be addressed.

Buddhist scholars (and some other researchers as well) indicate that the venting-catharsis theory and practice usually doesn't work well (Ellinghausen, 2006). Often people attribute their anger to an external cause, to another person. Buddhism offers a different perspective that might be very helpful to a mediation process.<sup>8</sup> Becoming aware of, for example, one person's anger at one or more of the other parties in the conflict can lead to his or hers learning from that experience, while the mediator can make use of it to help the parties find a solution (Fischer, 2009).

Western psychotherapy sometimes encourages the expression of anger, and the Dalai Lama says that there may be situations when it may be better to just express feelings of anger. But generally speaking, he says that if we don't *attend* to our anger, it will compound and increase. There are always many factors involved, but our normal tendency is to try to blame our pain on another, on an external factor. Better to adopt a cautious and inquisitive attitude and reduce the level of the anger (1997, pp. 27, 56). Similarly, Fleet Maull (2012) has pointed out that in most situations of unhappiness or trauma, many of us put most of our energy into resentment and into blaming other people for our situation. In fact, any time we feel uncomfortable, many of us tend to blame others. Rather, we can learn to approach our lives so that we take responsibility for what shows up in our lives. Taking ownership is not about blaming either ourselves or others, but, rather, recognizing that we always have a choice about what attitude we bring to a situation.

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<sup>8</sup> At the same time, I note that in Sulha (a traditional justice process used in many Muslim dispute resolution events) venting is considered indispensable—on the part of the victims—as a way to get beyond the anger and sense of victimization (Pely, 2011, pp. 435-437). A mediator's curiosity and openness to ethnic and cultural backgrounds are always important.

### **Conflict Mediation Approaches for Buddhist Chaplains (And Others)**

As explained above, the training Buddhist chaplains receive can give us great opportunities to assist in the cultivation of an expansive worldview to work with conflict on many levels.

In this section, I introduce several approaches or frameworks that have practical visions of mediation related to Buddhist philosophy. I provide only introductions, but I also include references that can supply much additional information.

#### **The “understanding-based mediation approach”**

This approach (no capitals used) has grown, during the past several decades, out of the need that Gary Friedman and Jack Himmelstein, co-founders and co-directors of the Center for Mediation in Law, felt for a less adversarial and coercive way of resolving conflicts than the models based on traditional legal traditions (Friedman and Himmelstein, 2008). It is an approach, designed with the support of Norman Fischer, that describes ways of restoring or engendering an understanding of humanity so that something good comes out of conflict, for all participants. The core ideas, each of which challenges conventional legal practice, emphasize:

That understanding is more valuable than coercion.

That parties can be encouraged to take primary responsibility for whether and how the dispute will be resolved.

That parties are best served by making decisions together.

That conflicts are best resolved by uncovering what lies under the stated problems.

In this approach the mediator supports each party in gaining as full an understanding as possible about what is important to her/him as well as what is important to the other party.

The parties are encouraged to own their conflict and thus participate in shaping the mediation process by making ongoing choices; they decide not only the *what* of the problem and the so-called resolution, but also, along with the participation of the mediator, the *how* of the process. The mediator is responsible also, as s/he supports the parties “in their ability to make choices together based on their growing understanding” (Friedman & Himmelstein, 2008, xxi). It is the understanding that ensures that the choices will be informed.

This approach tries to move participants beyond the adversarial right-wrong framework, arbitrated by an expert, a framework seen in traditional legal trial approaches, and in many types of mediation. Ideally, the mediator and the parties work together so that understanding between the parties forms the basis for the decisions they make.

Jack Himmelstein and Katherine Miller (also a mediator) have noted that their collaboration with Zen Buddhist priest Norman Fischer brings them a greater sensitivity to what might underlie what is going on for the parties in conflict as well as a framework and language for integrating the resulting understanding into the mediation work. Fischer has worked with the Center for Mediation in Law on ways to bring the calmness and insight of mediation practices into conflict situations (“Self-Reflection in Action...”, 2012).

In an exchange with Peter Gabel, founder of the Project for Integrating Spirituality, Law, and Politics, Gary Friedman explained that the understanding-based approach to mediation was developed to help parties come to a different relationship to law than the way it is customarily practiced—a relationship “that can actually help them to honor their impulses toward both autonomy and connection” (“A Dialogue With...”, 2003, para. 5).<sup>9</sup>

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<sup>9</sup> Gabel, concerned that having traditional law [of distributed negotiation] in the background, as something to resort to if the participants didn’t like the mediation process, said that the Project is, rather, interested in mediation itself becoming “the law,” as Restorative Justice is

The originators and others trained in this method offer frequent classes in how to apply this understanding-based approach to dealing with conflict. Mediators are encouraged to develop sensitivity and skills in self-reflection, and to assist those in conflict to do the same. The programs now include a meditative perspective as mediators also learn about dealing with personal tendencies that can get in the way--such as anger, being judgmental, and wanting to control. It is one approach that can bring a sense of human connectedness to disputes and conflict resolution.

### **Insight Mediation Framework**

The Insight Mediation approach is derived, in particular, from the philosophy of cognition developed by Bernard Lonergan (1902-1984), who focused on the importance of the social context on human behavior and on the way we make meaning out of our environment and come to realize what matters to us—i.e., our cares and values (Lonergan, 1957,1992). The Insight approach, a fairly recent contribution to mediation approaches, posits that conflict results from participants having the experience of a “threat-to-care,” an experience that causes participants to protect and defend their cares and values. This response is interpreted by others as an attack on what matters to them, and there is established a defend-attack pattern of interaction that escalates and keeps the conflict going, and growing.

The Insight theory of conflict differs from other earlier conflict mediation approaches such as the interest-based approach (with conflict as a problem to be solved) or transformative (with conflict as a moral undertaking) or narrative (with conflict as the result of cultural stimuli) (Pichard & Jull, 2011, p. 157). Obviously, assumptions about the origin of

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in criminal law. That is, Gabel suggests the possibility of a fundamental transformation of mediation.

conflict will have important implications for the ways that mediators intervene in a conflict. Insight mediators try to engage the conflicting parties in conversations to reveal the meaning-making that has resulted in the experiences of threat and to ascertain if each other's cares must really be a threat. Ideally, participants can come to see that they can have differing cares without having to experience threats to their cares. The features of the Insight approach are most fully explained in Kenneth Melchin and Cheryl Picard's *Transforming Conflict Through Insight* (2008, reprinted 2009).

The focus of the facilitator, in this framework, is on assisting the parties to gain insight into their cares and the threats to these cares. Helping the parties to learn what matters to all involved, why it matters, and how what matters is being threatened, can free the parties to explore ways that their cares might be protected without engendering threat. Facilitators, using careful listening and questioning skills, can lead participants into "deepening," a type of conversation that "helps to produce learning moments and insights that shift the direction of parties' engagement and their pattern of interaction" (Picard & Jull, 2011, p. 153). This process of revealing new insights can be visualized as "peeling back the onion," "seeing what lies at the bottom," "rediscovering our roots," and "getting to the heart of what really matters" (p. 153).

Lonergan, a Canadian Jesuit priest, was interested in human ways of knowing and in our acts of insight—the aha! experiences that come when we suddenly understand in a fresh way. This often requires shifting from one line of questioning into another, that is, disengaging from an original line of inquiry and habit, and taking a different tack. Lonergan's method of coming to know something afresh involves the following: 1) attend to our experience, 2) ask

questions about our experience and receive insight, 3) follow up through reflection as to whether our insights are correct, and 4) take action.

One can see some similarities to the tenets of the Zen Peacemaker Order: Not knowing, giving up fixed ideas so that newly acquired knowledge can be used in a new way; Bearing witness, sitting with the situation; and, finally, loving action, healing action, unifying action—action that serves the whole. While many people associate the three tenets with Socially Engaged Buddhism, Roshi Bernie Glassman and Sensei Jishu Holmes say that this is a useful way of approaching any situation [McLeod, 1997].) As in Buddhism in general, in the Lonergan approach people are seen as connected to each other through complex webs of relationships, patterns of interaction and meanings.

Several authors have noted Lonergan's interest in Buddhism, and have pointed to some ways that the Insight approach to mediation works from the premises that our behavior is fundamentally relational, that any changes in the conditions of the environment have an effect on our consciousness and on how we understand our position within that environment, and nothing has an independent or permanent existence (similar to the Buddhist doctrine of dependent co-arising). Further, both Buddhist and Insight approaches to conflict are based on theories of cognition. For both, consciousness is an important object of systematic study. Agatha Glowacki (2011) writes: "Both the Buddhist and Insight approach to conflict are based on theories of cognition, making these approaches very different from the more standard approaches to conflict that focus on interpersonal relations, social psychology, structural theories, or group dynamics" (p. 2).

When I asked Jamie Price, a Lonergan scholar, about the connections between the Insight approach and Buddhism, he replied:



I would agree that there is a good deal of overlap between the Insight approach to conflict resolution, Lonergan's philosophy of consciousness, and Buddhist psychology and mindfulness principles. After all, [Buddhist principles and Lonergan's philosophy] are both critically grounded in the data of consciousness. (Personal correspondence, August 28, 2012)

Insight theory and Buddhist philosophy both recognize the social nature of human life and the ways that traditions, communities, and relationships are all interrelated; in Buddhism this is the doctrine of co-arising, an acknowledgement of a limitless web of interconnections. As Agatha Glowacki writes, "In this way, both Insight and Buddhist philosophy agree on the fundamental social nature of conflicts" (2011, p. 3). She points out that some of the skills of Engaged Buddhism can be useful to facilitators in Insight mediation: noticing habitual patterns, curiosity, strong emotions, defend stories, and surprises. Meditation practices can strengthen such important facilitator qualities as focus, calmness, and compassion. And facilitators can help parties in conflict get in touch with their feelings of fear and hostility by becoming mindful of body and emotions (pp. 10, 11). As the parties engage in deep conversation, they may suddenly come to see why something matters to someone else. Such an insight may mean that the parties can connect in ways they could not before (Picard & Jull 2011, pp. 155-156).

This is an approach that is aligned with the belief that we can learn a great deal through the conflicts in our life, and with belief that a democracy does not absolve us of the responsibility of working through conflict since one person's "free choice" often conflicts with and disrupts the lives of others. This approach encourages us to become curious about ourselves and our partners in conflict, to look deeply into the cares and threats undergirding

our surface positions. The advocates of this approach believe that self-understanding may be difficult, but vital to our relations with family, friends, and neighbors—and vital to our democracies that depend on our skills in working through the conflicts of everyday life.

### **The Nonviolent Communication (NVC) Framework**

This framework has been developed primarily by Marshall Rosenberg, psychologist and international mediator, to “inspire heartfelt connections between ourselves and other people—connections that allow everyone’s needs to be met through compassionate giving” (Rosenberg, 2012, p. vii). NVC has been used not only by many U.S. mediators to help individuals, families, groups and communities work together to establish connection and discover meanings together but also by peace programs in conflict zones such as Rwanda, Burundi, Nigeria, Malaysia, Indonesia, Sri Lanka, Columbia, Serbia, Croatia, Ireland, and the Middle East. It has also been used by advocates of restorative justice, bringing together prisoners, victims of crime, police, and legal officers. (I attended my first NVC course in 2011 when it was offered by trainers involved with the Occupy Eugene actions. Many Occupy sites have explicitly used NVC principles and practices for their meetings.)

NVC focuses on three communication skills: self-empathy (a deep and compassionate awareness of one’s own inner experience), empathy (ability to listen to another with deep compassion), and honest self-expression (ability to express oneself authentically in a way that is likely to inspire compassion in others).

NVC posits that all humans have the capacity for compassion and only resort to violence or aggressive behavior when they do not have access to more effective means for meeting universal human needs. NVC provides specific “nonviolent” communication strategies that

include establishing compassionate connection to others. It is often understood as a spiritual practice as well as an educational method.

Many people have noted that the Nonviolent Communication approach is complementary to Buddhism, both in theory and in manifesting Buddhist ideals in practice (Shantigarbha, 2008; Lasater & Lasater, 2009). Jason Leslie (2009), in writing about the teachings of the Buddha and of Marshall Rosenberg, calls the parallels striking. Certainly both call for getting in touch with the basic goodness of everyone, for observing without judging or evaluating, and for identifying and trying to uncover the needs at the root of our own feelings. According to Roberta Wall, lawyer, Buddhist, and teacher of NVC, this process draws our attention to the needs we feel and to whether we are requesting or demanding—and thus encourages us to develop equanimity and to trust in the compassion of others. If our requests are denied, we can focus on what the other person is feeling and needing. Another NVC teacher, Barbara Bush, points out that this process is “meditation in relationships,” with a shift from an awareness of breath to an awareness of the feelings and needs of oneself and others. Like meditation, it requires practice, commitment, patience and other qualities associated with aspiring bodhisattvas (see Leslie 2009).

Workshops for NVC are held by many Buddhist teachers, and in Zendo and in Unitarian Universalist, Quaker, and other churches. On NVC websites and on the first pages of NVC books are numerous testimonials from mediators and activists. Bernie Glassman (Zen teacher and co-founder, Peacemaker Community) states: “The extraordinary language of Nonviolent Communication is changing how parents relate to children, teachers to students, and how we all relate to each other and even to ourselves... Most important, once we study NVC, we can’t ignore the potential for transformation that lies in any

relationship—if we only bother to communicate with skill and empathy” (Rosenberg, 2003, p. iii). William Ury (co-author with Roger Fisher of the influential mediation book *Getting to Yes*) writes, “Nonviolent Communication is a simple yet powerful methodology for communicating in a way that meets both parties’ needs. This is one of the most useful books you will ever read” (Rosenberg 2003, p. iii). Diana Lion (active in the Buddhist Peace Fellowship, and *Turning Wheel Magazine*) states, “In Nonviolent Communication the author describes how, in numerous conflicts, once ‘enemies’ have been able to hear each other’s needs, they are able to connect compassionately and find new solutions to previously ‘impossible’ impasses. If you want to learn ways of more skillful speech, I highly recommend this book” (Rosenberg 2003, p. v). Jesse Wiens (drawing upon seven years of living and practicing in Zen monasteries, as well as training with NVC founder Marshall Rosenberg, with the Center for Understanding in Conflict co-founder Gary Friedman, and with a restorative justice program at San Quentin State Prison) founded ZENVC as a vehicle for bringing the teachings of Zen and NVC together (see <http://zenvc.org>).

Rosenberg describes the core principle of his work when he states his intention in developing NVC is to train attention – “to shine the light of consciousness – on places that have the potential to yield what I am seeking. What I want in my life is compassion, a flow between myself and others based on a mutual giving from the heart” (2003, p. 4). NVC is built on the principle that people are essentially generous, compassionate and interested in contributing to the welfare of others.

The four components of NVC process are: First, we observe what is happening (without making evaluation). Second, we listen to what another is feeling in relation to what is observed. (The list of some possible feelings in Rosenberg’s books is long.) Third, we listen

for what needs, values, or desires are related to the feelings that have been identified. Fourth, we listen for a specific request. We may begin either by expressing ourselves or by receiving these four elements from others. Setting forth this neat sequence is perhaps misleading since Rosenberg states that NVC is not a formula, but, rather, actions to be adapted to various situations. He says, for example “[I]t is possible to experience all four pieces of the process without uttering a single word” (2003, p. 8). Because NVC is grounded in our natural state of compassion, Rosenberg says this is an approach that can be applied to all levels of communication in diverse situations from intimate relationships to schools and other organizations and institutions, to diplomatic and business negotiations. That is, it can be effective in “disputes and conflicts of any nature” (p. 9).

NVC is a language and process that grows out of an awareness of “needs.” As Zen Teacher Robert Joshin Althouse (2010) has pointed out,

I have always found NVC to be very useful....If people just try to mimic the language they end up sounding like NVC parrots which is not helpful at all. The heart of the matter is shifting to an awareness of needs which includes the needs of others around us as well. I think that is a very difficult teaching. Growing up many of us have learned that it's not ok to have needs. I've even encountered Zen students that don't think we should have needs. But to me that is just ridiculous. In NVC needs are defined as anything that supports our life. (para. 10)

Rosenberg traces the use of the term Nonviolent Communication to Martin Luther King's “Nonviolent Direct Action” and to Gandhi's program of “Nonviolent Action.” In a corresponding way, he says, NVC is not just about personal development and interpersonal conflicts – but also about radical social change.

As yet, there are not many analyses of how mediators have been able to use NVC effectively in various cultural contexts. As one reviewer of Rosenberg's *Nonviolent Communication: A Language of Life* points out:

There are only occasional notes in *Nonviolent Communication* about how local values affect how NVC is practiced in other cultural contexts. The international distribution of NVC practitioners and programs offers a very rich field for international understanding that deserves exploitation on a larger scale. Capturing NVC challenges, solutions, best practices and learnings as its core technology is applied around the world would be an exciting undertaking and a rich contribution to how we generate cultural competence. The next doctoral candidate I lay my influence on will get steered in this direction. (Simons, 2003, p. 21)

However, almost a decade later, I still found it difficult to locate studies of the Rosenberg method. There is a large body of literature describing NVC's application in a wide variety of conflict situations, but little critical analysis of NVC or its teaching. William C. Hulley (2006), a chaplain, therapist and counselor who has a Master of Divinity from Naropa University and whose counseling approach is rooted in Japanese and Tibetan meditation practices, uses NVC in his work, but points out that there is little formal research on Rosenberg's Nonviolent Communication method. Simon Beck (2005), while appreciative of the way that NVC training moves us from our usual patterns of judgment and evaluation to a program of compassion and need, has stated that people receiving training of NVC process seemed to have skills that "tend to wane over time and would often vanish when triggered by some event or person" (p. 3).

However, the NVC method can be tied to other more researched approaches. Rosenberg studied with Carl Rogers, an influential American psychologist and among the founders of the humanistic approach to psychology. The NVC approach is also synergistic with more recent developments in feminist and social constructivist perspectives. For example, Rosenberg's ideas about empathic connections resonate with the care theory of Nel Noddings (1984, 2010a, 2010b), a well-known scholar who has researched caring relationships and empathic connections. Noddings has stressed that needs are "a fundamental concern of care ethics" (2010, p. 8).

The interest in caring behavior ties the NVC method to the work of some mediators who have become very interested in the research of neuroscientists suggesting that when we consciously think about "being empathetic" we engage the pre-frontal cortex which helps focus our attention further on being empathetic in the particular situation. Doing check-ins with ourselves in this way may activate the anterior cingulate cortex, which "pays attention to paying attention" ("Buddha's Brain: Neuroscience's Lessons...", 2012, para. 5). The "Zen Brain" programs at Upaya Zen Center offer mediators a chance to participate in discussions with leading scientists, long-term meditation practitioners, Buddhist scholars, and philosophers as they share their perspectives on the relationships between Zen practice, Buddhist philosophy, neuroscience, and complex systems theory. The future may bring more links among the NVC approach and these researchers.

### **Consensus Making Framework**

Buddhist history indicates that at the time of Buddha groups of monks often made decisions by consensus, as individuals attempted to solve common problems, communicate with each other, share information, develop and evaluate possible solutions in order to reach

agreement. Participants made efforts, by argument, compromise, and conciliation to attain unanimity. All were allowed to express ideas. (See Charles Schwenk, n.d.)

Many contemporary groups have used processes for decision-making drawn from Quaker (Religious Society of Friends) methods of unity or consensus-building.<sup>10</sup> For more than 300 years, members of the Society of Friends have been working for peace and serving as mediators. The Quakers are devoted to the elimination of majorities and minorities, and to the ensuing idea that God is in everyone. Central features of the Quaker-based consensus decision-making are the belief in our common humanity, in the value of dissent and diversity of thought, and in the importance of unity (Snyder, 2001, p. 63). The right conduct in meetings is cherished, not to be sacrificed in an effort to reach an immediate goal of action. Process, with a focus on respect for each other's thoughts and insights, is valued more than product or outcome (Quaker Basics, 178-179).

During the past year I have participated in Community Service Mediation trainings in Eugene, Oregon, that include practice in consensus-building, as well as in Occupy Eugene general assemblies that have used consensus for decision-making. In fact, much to the consternation of some members of the press and city officials who wanted to find the "leaders" of the movement, decisions by consensus rather than by any "people-in-charge" emerged as a core value of the Occupy Movement, although the usual Quaker methods were modified to include, for example, the use of more than one facilitator, of human microphone methods (which might require people to repeat or "amplify" comments they don't necessarily

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<sup>10</sup> Historically, many Friends have used the term "unity" rather than "consensus". In this use, unity is not a synonym for unanimity, but refers to the understanding that one spirit leads all to unite in what is revealed, as in the expression "I can unite with what Friend Smith has said" (Sheeran, 1983, p. 63; also see Morley, 1993). I am using "consensus" in my discussion because that is how this method is usually referenced in general mediation training and literature.



agree with), and of nonverbal expressions such as “twinkling fingers” to express strong agreement (see Bales, 2012). Quaker women and Quaker methods have also played a prominent role in the Women’s Movement; we can think of values such as the use of non-violence, the stated importance (if not always the practice) of inclusion of all races and people from all walks of life, of work toward world peace, and of the tradition of working toward consensus rather than using hierarchical decision-making (Quaker Basics, p. 79).

Traditionally, the mediation sessions based on the Quaker method begin and end with periods of silence (which can be considered a universal language, uniting beyond words). The sessions are assisted by a Presiding Clerk and, often, a Recording Clerk. The Clerk does not speak for those in the meeting but, rather, helps the group focus and helps with the pace of discussion, while listening for the sense of the meeting to emerge, restating that and asking if that is indeed the will of the group. The Clerk does *not* tally the opinions in pro and con lists. Participants are not to plan messages ahead of time and are to refrain from stating their remarks as arguments, debate or persuasion points. Participants agree to listen thoughtfully and respectfully, and, when speaking, to observe pauses between comments in the discussion. All participants have a responsibility to participate if they have thoughts on the topic since one person’s statement of misgivings may lead others to reassess.

Some people who have a point of disagreement may feel that it is strong enough to merit a dissent, but not of enough importance to keep the discussion from moving forward. That is, one can mention one’s *disagreement*, even while withdrawing one’s *opposition*. A further practice, less often used in Quaker meetings, is that of requesting that one can be registered as opposed, which again leaves the meeting free to proceed. In each of these occasions the group may be more hesitant to go forward, but the objector has explicitly

indicated that his position should not stand in the way of the rest of the group. If a person is really “unable to unite” with a meeting proposal in such a basic way that she or he is unwilling to stand aside, the usual procedure is to delay action until a later time--or perhaps the Clerk will ask the objector to consent to be recorded as opposed. If action is delayed, the Clerk and other members of the group may make further efforts to understand the roots of the objection before a further meeting is held (Sheeran 1983, p. 66-70).

Advocates of the Quaker method suggest that decisions often have broader acceptance if made by a consensus process during which major challenges are addressed that may emerge during implementation of decisions, reducing surprises that can undercut enactment. Further, discussions that enable group members to see their contributions valued usually also enable members to see the decisions as their own, so there may be a higher commitment to implementation (Snyder, 2001, p. 2).

Consensus decision-making can be slow and sometimes tedious, messy, vulnerable to disruption, and—perhaps most problematically—it’s got a strong built-in bias towards the status quo. It can create perverse incentives – for example, it gives a lot of power to people who say no, which might make saying no attractive for people who want to be powerful. And it can act to empower people with strong views, regardless of their legitimacy or correctness (Gardner, 2010). (See Ministry and Nurture Committee...(2002) for a discussion of how to meet the needs of the many while still paying attention to the needs of a few.) However, many mediators have found consensus-making very useful because it is a process that allows all voices to be heard and encourages respect for minority views. For those of us accustomed to conflicts being “resolved” by majority rule, or by a boss, or a judge or jury, consensus-building can be a welcomed approach, enriching for all involved.

### Circle Process Framework

While circle processes may seem relatively new to many Euro-Americans, this way of bringing people together to work out conflicts and find answers is actually very old. It draws on ancient Native American traditions, often using a talking piece, an object that is transferred from person to person in the circle, granting the holder permission to speak (Pranis, 2005, 3; Baldwin, 1998). The circle groups have recently been more widely used by, for example, community activists in the Occupy and the restorative justice movements, Bible study groups, students, staff and faculty in schools and colleges, Girl Scouts, Boy Scouts, and activists in the feminist movement. (I was introduced to circle processes in a Consciousness Raising group in the mid-1970s. We used directions from a 1971 leaflet distributed by The Chicago Women's Liberation Union. In a circle, passing a talking stick, we shared stories, learning together about how we could work individually and together to build a more just society.) Recently such circles have been used for resolution of commercial disputes (Jones and Georgakopoulos, 2009).

Sometimes the circles are used to make decisions and when that is the intent, decisions are made by consensus based on a deep and respectful listening to all participants and an agreement to help everyone meet their needs. *Sentencing* circles use the traditional ritual and structure, and all interested community members (often including police officers, lawyers, victim, offender, and community residents) are encouraged to speak from the heart (Pranis, 1997). Even if consensus cannot be reached and the group reverts to whatever other sentencing process would usually apply, as a result of the circle process there may be a much clearer understanding of participants' needs (Pranis, pp. 37, 28). Sometimes getting to a

precise resolution may be secondary to participants learning more about their similarities, differences and intents (Pranis, Stuart & Wedge, 2003), and to addressing the needs of families and communities. That is, “healing relationships” and “finding clarity” may better explain the process of the circles than does “resolution.” A justice circle session may be less like a hearing about dispositional requirements than a celebration of progress (Bazemore & Griffiths 1997, p. 32).

Sentencing Circles have been developed in a number of Canadian communities, bringing together offenders, victims, support groups, and involved community people to discuss what happened and what might be done about it. A Sentencing Circle, with an emphasis on collective responsibility, consensus-based decision making, and on healing of people, relationships, and communities, can be used in partnership with the criminal justice system, to develop a sentencing plan that addresses the concerns of all the parties. The “punishment” or judgment is worked out in the discussions, but emphasis is on the healing of the victim, the offender and the community. Judge Barry Stuart, who has been involved in the Sentencing Circles, says that when conflicts are processed with care they provide the way to building relationships between people and within communities. He argues that while initially the Circles have been used primarily in First Nation communities, they are equally appropriate in other populations, including inner cities (Zehr, 1998, pp. 76-77). Circles are expandable, have more latitude, and can involve more members of a community than is usually the case in most processes in the U.S. court system, and in a more equitable way. They are also more “open” in terms of what kinds of interventions are possible.

Often the circle process is used not to provide a “sentencing” but primarily to help participants connect as human beings, and perhaps help prevent tensions from arising and

crimes to occur. As described by Mark Umbreit (2010), the process often includes opening comments by the facilitator (sometimes called the keeper or circle-maker), who explains the intent to create a safe place for sharing thoughts and feelings, and presents ground rules involving listening with respect—or gathers ground rules from participants. Eco-philosophers and eco-chaplains such as Joanna Macy and Sarah Vekasi often use group circles (and the concept of the Widening Circle) as part of their interactive group processes, in their *Work that Reconnects* (see Macy & Johnston, 2012). As Howard Zehr (who has done foundational work in the growing restorative justice movement) points out, unlike most mediation processes, circles often explicitly name and draw upon core values of the participants (2008, p. 3). The rules often include: Listen with respect, with each person getting a chance to talk; do not cut people off; speak for yourself, not as a representative of any other person or group; and acknowledge that it is okay to disagree but not to do name-calling or attacking. The circle maker often readies the physical setting, chooses the opening and closing rituals and facilitates consensus on the topic (<http://www.wisdomcircle.org/format.html>).

The person holding the speaking piece can talk (and if someone doesn't feel comfortable speaking, she simply passes the talking piece to the next person). Often the speaking piece goes around several times before closing remarks.

The circle format focuses on dialogue, rather than on an agenda or on the completion of a task. Some circles begin with a simple ritual of lighting a candle or taking a few minutes of silence to begin. Tom Atlee (founder of the Co-Intelligence Institute) says, "Even the simplest, most unsophisticated circles are experienced as revolutionary by people who've known little more than the hectic, banal, adversarial or repressed communication modes typical of our mainstream culture" ([http://wisdomspace.net/WL\\_Wgrp\\_circle](http://wisdomspace.net/WL_Wgrp_circle)).

Engaged Buddhism groups sometimes use fishbowl forums, asking one group to join an inner circle with a talking stick, while another group joins an outer circle to listen and observe; eventually the groups exchange places. After the circle talks end, everyone returns to the outer circle of chairs for a general discussion.

Members of the Zen Peacemakers Sangha combine Zen training with a variety of peacemaking techniques such as circles. In the Practice Circle, an altar is created in the center, along with, perhaps, flowers, candle, and a talking piece. That center can be considered a reminder of unknowing, of a space in which we remain open and related to all things with equanimity—to remind us that the don't know mind is our grounding (Nakao, n.d.).

Circles can accommodate a large number of people while avoiding some of the problems that may come with open-microphone formats, often used for community events, which tend to further polarize factions. However, when circles are used for large-scale community conflict, additional rules seem to be needed. If multiple groups are required, additional pre-trained facilitators need to be ready. To create smaller circles participants can be asked to count off so that the makeup of the groups will then likely be more heterogeneous than if individuals choose their own circles. The rules and agenda might need to be announced before the meeting and include the information that facilitators will be guiding the discussions providing explicit statement of the ground rules (and perhaps even asking participants to make a signed agreement to the rules), even if most participants are familiar with the rules from previous processes. The structure of the circle then can create a safe space for interaction, as even intense hostility may dissipate when others are heard and are humanized (Hamlin & Darling, 2012).

Council circles, an old, pan-cultural practice of sharing insights, are being increasingly used by groups that specifically want to incorporate contemplative practices in their group meetings. From participating in Council circles at Upaya Zen Center, I learned that when heartfelt expression along with deep, empathic listening is encouraged group members can become involved in a partnership model where responsibility and leadership are shared. The four tenets of Council are: speak from the heart, listen from the heart, be brief, and speak spontaneously (i.e., do not plan while others are speaking). This method takes some practice but it can open hearts, build close relationships and compassion, achieve consensus, explore challenges, and ease competition and conflict. According to *The Way of Council*, the tradition of council is ancient, traced on this continent to the league of the Iroquois as well as to the native peoples of the Plains and Southwestern Pueblos. Council has been practiced in Islamic, Judaic, Christian and Buddhist communities in many parts of the world, as well as in many organizations and workplaces (see Zimmerman & Coyle, 2009). In her report on several organizations whose members try to bring contemplative practices into their work environments, Mair Duerr (2004) found that many people she spoke with mentioned Council circles (along with moments of silence) as important for letting all voices to be heard.

If we want to find out what external empirical research has been done on the efficacy or success of the circle process, we would do well to realize that in some Native cultures, “research” is “not the prerogative of an ‘objective elite’ with special technical skills but an aspect of the traditional community process that generates information sharing, decision making, supportive connections, and strategies that seek balance according to Native views” (Nabigon *et al.* 1999, 114). We can also note that many community justice programs have objectives that are more holistic than are traditional legal systems, which might measure

primarily recidivism rates. An evaluation of the circle processes might also need to include measurements of “community empowerment and solidarity, victim interests, and crime prevention” (Bazemore & Griffiths, 1997, p. 33). While the circle process may seem to many in the U.S. to be an Alternative Dispute Resolution, in many cultures and communities in North America and the Western hemisphere, litigation is actually the alternative (Osi, 2008, p. 165).

Those of us who do not come from U.S. or Canadian Native cultures may not initially understand the meanings that the circles have for those who have used the circles for many years in community education and healing. However, it is useful to note that an underlying theme in Native American spirituality and in Buddhism is the honoring of the great circle of life. Sacred circles, medicine wheels, sacred hoops, and mandalas are all images of wholeness and actions that can direct us to the non-dualistic truth of who we are and our relationship to each other.

### **Other Skillful Means for Buddhist Chaplains Serving as Mediators**

The focus above has been on providing introductions to several models of conflict mediation in which the grounding theories and methodologies are related to Buddhist teachings. These models differ from mainstream interest-based mediation approaches that begin with the assumption that human beings are naturally motivated primarily to fulfill their own interests (and thus oppose those of others).

However, whatever the guiding model or models used for a mediation session, most facilitators are going to want to assist participants toward engaged participation, mutual understanding, inclusive solutions, and shared responsibility. Recognizing this, authors of mediation textbooks and courses often provide facilitators with a variety of techniques to



assist in participatory decision-making. For example, training programs may teach the procedure for “stacking,” i.e., for helping people take turns when many want to speak at once. Mediators often learn paraphrasing and mirroring techniques, to help participants make their points and feel understood.

During my research on mediation approaches related to Buddhist teachings, I also learned about several techniques or skills that a Buddhist chaplain in particular may find useful to use along with any chosen general approach to mediation.

For example, some mediators write about their use of meditation training to pause before going to meet their clients, reminding themselves of their intent to bring peace to conflict. Certainly, setting aside a time for meditation before moving into a conflict situation that might be long and difficult will be useful, whatever the specific mediation approach is used. Mary Zinkin (2013) has written about how to use mindfulness and loving-kindness practice before, during, and after mediation.

Other mediators also mention the importance of mindfulness as a desirable practice in mediation--although the meaning of “mindfulness” seems to shift a lot. Sometimes it seems to mean that facilitators and parties in conflict can benefit from being reminded of the importance of being aware of each other. At other times, mindfulness seems to refer to the non-judgmental awareness of Buddhist mindfulness practice. A few mediation scholars differentiate between mindfulness as it is described in Buddhist practice and the use of the term in much other Western literature (see, e.g., Riskin, 2002; Fletcher & Hayes, 2005; Rock, 2006), but many do not, a reflection of the increasing casual use of the word in health care, psychology, business, and education in the U.S. While now many law schools and mediation programs are offering classes on mediation and mindfulness (see one listing in Kuttner,

2010), the specifics of how mindful practices can guide the facilitator guiding the mediation are seldom spelled out. It *can*, of course, be a powerful force for transformation, personal and social. However, in some of the mediation literature, it almost seems as if mindfulness is considered by some as a contemporary fashion, with little concern expressed for the philosophy it entails or the specific ways it can be beneficial for mediation participants.

As Norman Fischer (2009) states, the practice of mindfulness involves skillful mental training. He points out that many professionals with a great deal of knowledge aren't necessarily good, for example, at compassionate presence, "the ability to evoke an atmosphere of love, forgiveness, and acceptance." He also reports that after years of talking about how mindfulness meditation could be used in their work, he, Gary Friedman and Jack Himmelstein (understanding-based mediation) began to include it in the trainings they offer for mediation facilitators: "When mediators learn to see more deeply into their own motivations and prejudices with a sense of acceptance and curiosity, rather than with judgment, they are able to make use of their own emotions—and to come to understand others better" (2009, para. 10). See Darshan Brach (2008) for a further discussion of the ways that theories of mindfulness meditation and its Buddhist foundations can assist the mediator.

The latest findings in neuropsychology may provide practical insights and actions for mediators, as scientists from a combination of perspectives help explain how clients in conflict may have spent time growing and "wiring in" negatives while having more difficulty keeping in mind positive aspects of relationships. (See *ADR Times* [2012] review of the book *Buddha's Brain: The Practical Neuroscience of Happiness Love & Wisdom* by Rick Hanson and Richard Mendius [2009]), a book which gives us insight into how our brains handle conflict and includes practices that can be used for encouraging conflict resolution.)

Buddhist chaplains and other mediators might also want to use the elements of the compassion model, G.R.A.C.E., which can assist in allowing compassion to emerge in their relationships with those in conflict. The G.R.A.C.E. model has five elements: **G**athering attention: focus, grounding, balance; **R**ecalling intention: the resource of motivation; **A**ttuning to self/other: affective resonance; **C**onsidering: what will serve; **E**ngaging: ethical enactment, then ending. In a discussion of her model, Roshi Joan Halifax (2012) points out that compassion when doing difficult work can actually become a wellspring of resilience and nourishment rather than depletion, an important consideration given that many mediators talk about burnout (see e.g., Jacobs 2012).

Kenneth Cloke (2009), mediator and Buddhist, contributes to the discussion by pointing out that mediators can always consider utilizing such techniques as encouraging empathetic storytelling and reflection; reframing differences to uncover underlying issues; asking parties to speak directly to each other from their hearts; drawing awareness to what they are feeling at the moment; asking what the other can do to help them listen or speak more openly; and using feedback to reinforce awareness.<sup>11</sup>

While these processes above are sometimes mentioned as “techniques,” they shouldn’t be considered as bits and pieces of behavior that can be added or subtracted to mediation sessions on a whim. As mediation teacher Kenneth Cloke (2001) writes: “[T]he roles we play in mediation are largely defined by our own attitudes, expectations, and styles. These roles,

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<sup>11</sup> The focus of mediation in the U.S. has been on face-to-face meetings, but increasingly the use of new electronic technologies will require specialized training for mediators, and may allow them to “sit with” and collaborate with parties in separate locales. Already, much of the mediation initial and follow-up communication is via email. Buddhist chaplains, with their concern for skillful communication, might help develop compassionate guidelines for online mediation.

in turn, depend on a set of assumptions about human nature, the nature of conflict, and the nature of change ... resulting in radically different definitions of mediation” (p. 9). The components of mediation practices are best chosen with an awareness of the relationship--the interconnections--of all the parts. Chaplains working with people in conflict cannot control the outcome of mediation, of course, but they can control their own careful intentions and choices of practice.

### **Conclusion**

Many community mediators today have tried to move from what some have called the “gladiator” model of traditional legal advocacy to seeing themselves as bringing healing, not just momentarily solving an immediate conflict. Further, many facilitators engage in offering training programs and in taking training programs to discuss a variety of ways to help people in conflict come to a common resolution agreeable to all parties. Usually, teachers of mediation trainings avoid straitjacket approaches, as experienced facilitators realize that people and their assumptions and goals are diverse. Just the very existence of mediation services in many communities today is of immense benefit to individuals and groups in conflict.

The relative newness and continual flux of mediation practices bring opportunities for continued changes. Buddhist chaplains with training in the ability to listen deeply to both themselves and others, to empathize, to see dependent co-arising—and thus to try to avoid attachments to “right” and “wrong,” and to attachments to the concept of a permanent, independent self—may have some particular valuable contributions to the field and practice of mediation. Using some of the approaches offered in this thesis, Buddhist chaplains serving

as mediators may offer new modalities for an integrative style of negotiation that can help reveal a relational common-space for participants that goes deeper than individual positions.

I have searched in many places and with the help of many people, looking for suggestions for those interested in becoming bodhisattvas of conflict resolution. All the alternative dispute resolution approaches or frameworks in the many articles, textbooks and teachings share a commitment to consensual justice. However, not all mediators are in agreement about the ways that such justice can be obtained, or about the essential goals of mediation. One mediation teacher noted that students in her class were resistant to the notion of serving as “peacemakers.” They thought of peacemakers as “spineless” and “wishy-washy” (Gunning, 2004, p. 87). This is far from the approach that Roshi Bernie Glassman takes: “Peacemaking is the functioning of bearing witness. Once we listen with our entire body and mind, loving action arises. Loving action is right action” (the Zen Peacemakers website at <http://zenpeacemakers.org/bernie-glassman/>). Or the approach that Barry Boyce (2011) takes when he states that “[Peacemakers] are working in schools, in juvenile detention halls, in housing projects, on the streets where the homeless hang out, even in city hall. They are urban peacemakers. For them, peace begins at home.”

As the Dalai Lama reminds us, conflict itself is not necessarily a bad thing:

Now, there are many, many people in the world, but relatively few with whom we interact, and even fewer who cause us problems. So, when you come across a chance for practicing patience and tolerance, you should treat it with gratitude. It is rare. Just as having unexpectedly found a treasure in your own house, you should be happy and grateful to your enemy for providing that precious opportunity.

The Dalai Lama (quote reprinted at [Beliefnet.com](http://Beliefnet.com))

As this statement from the Dalai Lama makes very clear, conflict can be both challenging and can lead us to new understandings. But what are the conditions that make this most likely to happen? How can mediators help ensure that the conflict resolution is beneficial and satisfying to all participants?

This thesis is an exploration of how Buddhist teachings combined with mediation trainings can help Buddhist chaplains, in particular, to develop skills to improve our handling of conflict--our helping bring about peace.

Most experienced mediators will want to use approaches and techniques that align with their training, personal beliefs, and experience, and with what they define as success. My own search has been to find descriptions of practical mediating skills that can help Buddhist chaplains incorporate personal values into negotiations while assisting clients in the best ways we know how. There is no one way. As Bernie Glassman (1998) writes, we need a bag full of tools suited to all occasions, a bag such as Hotei's (pp. 72-73). (Hotei is a Zen Buddhist character who travels on a quest, ready to work with all people in whatever way necessary. His bag contains all that he needs. If someone is injured, he reaches into his bag and takes out a bandage; if he sees a garden full of weeds, he reaches in his bag and takes out a rake and a hoe. We want knowledge and resources to work in a useful way in many situations.)

As Kenneth Cloke writes, "Within Buddhism, there are not only mindfulness or awareness practices but concentration and insight practices. These ultimately merge into a single practice that encompasses every part of us" (2009, para. 10).

The approaches discussed in this thesis all suggest that the mediator cultivate a presence of mental focus and clarity, active listening, facing tough experiences rather than fleeing

them, building an interconnectedness with all people, recognizing impermanence and codependent arising, and developing and encouraging a spacious awareness of possibilities.

Most mediation literature concentrates on what effect the mediator's action will have on the parties working towards (or for) resolution, but little is said about how the mediator can learn to deal with the feelings that she herself experiences during mediation. In general, the mediators are advised to contain their feelings in an effort to maintain neutrality and communicate impartiality. However, as the material in this thesis has indicated, any Buddhist approach would encourage the mediator to practice self-awareness and deep reflection about the impact that the mediation and conflict is having on her. The mediator may work toward impartiality, but she is not extrinsic to the conflict. Kenneth Cloke writes that mediators might well consider themselves not "impartial" but "omnipartial," that is, partial to all (see discussion in Bowling & Hoffman, 2000).

Mediators do not usually participate in these processes wearing a label as a Lutheran, a Buddhist, a rabbi, an atheist, or an iman. However, as Marsha Lichtenstein (2005) points out, mediators do function in a spiritual role, ideally helping make transparent what is murky, raising consciousness, and demonstrating new ways to interact and resolve conflicts. I have focused on frameworks that may be particularly useful for Buddhist chaplains doing conflict resolution work. However, I think that the material may be of some assistance to anyone interested in ideas of collaboration, community welfare, cooperation, shared fates, all working together to achieve a more peaceful world.

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## Appendix

Terminology: As soon as we look at the books on resolving conflicts, we notice that the terms *facilitator* and *mediator* seem to be used interchangeably to define a variety of problem-solving positions and professions. Some authors note that a facilitator is an impartial person who helps organize and move a meeting along, while not including her own content. A mediator is sometimes defined as a third party brought in to help settle a dispute between seemingly deadlocked opponents. In a consensus-building process, a facilitator, mediator, or process manager assists people to help assure the involvement of all stakeholders. *Facilitator* seems to be a more general term, which can be applied to anybody who guides group processes; the term *mediator* may be applied to someone who works with parties who are thought to hold quite disparate views. Here, in general, I will use the terms introduced by those who discuss each of the methods below. (For an extensive discussion of terminology for conflict transformation, see Catherine Morris [2002].)

*Community*, as in “community mediation” services, is a much-used but seldom explained concept. As used here, it can refer to a town, a neighborhood, a church, a school, an extended family, a support group, or an Indigenous band, nation or tribe.

