Humanistic Mediation: A Transformative Journey of Peacemaking

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Building on the rich experience of mediators in many fields who have periodically experienced the process to be far more than just developing a settlement, a humanistic model of mediation is presented. The model allows practitioners to more intentionally and consistently tap into the intrinsic transformative and healing potential of mediation. The dominant Western "settlement-driven" model of problem-solving mediation is contrasted with the "dialogue-driven" humanistic approach and its nondirective style of mediation, which routinely involves the mediator meeting separately one or more times with parties in conflict prior to the mediation session. Specific elements of the model are presented, as well as the paradigm of healing on which it is based. Drawing on the wisdom of numerous indigenous traditions of peacemaking and the experience of many mediators in family, community, workplace, and victim-offender mediation settings, humanistic mediation practice offers a genuine transformative journey of peacemaking that is grounded in compassion, strength, and our common humanity.

The impact of mediation in resolving a wide range of interpersonal conflicts is well documented. The application of mediation consistently results in high levels of client satisfaction and perceptions of fairness within families (Emery and Jackson, 1989; Depner, Cannata, and Simon, 1992; Duryee, 1992; Kelly, 1989, 1990; Slater, Shaw, and Duquesnel, 1992; Umbreit and Kruk, 1997); among coworkers (Umbreit, 1995c); and in neighborhoods (Clark, Valente, and Mace, 1992; Cook, Roehl, and Sheppard, 1980; Davis, Tichane, and Grayson, 1980; Kolb and Rubin, 1989); schools (Araki, 1990; Moore and Whipple, 1988; Stern, Van Slyck, and Valvo, 1986); and the criminal justice system (Coates and Gehm, 1989; Umbreit, 1991, 1993, 1994, 1995a, 1995b; Umbreit and Roberts, 1996). The achievement in mediation of a written, mutually agreed upon settlement between the involved parties is often an important outcome. However, if the field of mediation becomes driven by the desire to reach settlements in the quickest way possible at the expense of understanding and addressing the

emotional and relational context of the conflict, it may evolve into little more than another impersonal, mechanical, and routine social service. This article presents a model of mediation that intentionally taps into the full potential of mediation to offer a genuine transformative journey of peacemaking that is grounded in compassion, strength, and our common humanity.

Although some conflicts, such as complex commercial disputes, clearly require a primary focus on reaching an acceptable settlement, most conflicts develop within a larger emotional and relational context characterized by powerful feelings of disrespect, betrayal, and abuse. When these feelings about the past and current state of the relationship are not allowed to be expressed and heard in a healthy manner, an agreement might be reached but the underlying emotional conflict remains. Little healing of the emotional wound is likely to occur without an opening of the heart through genuine dialogue, empowerment, and a recognition of each party's humanity despite the conflict. This requires moving far beyond the well-known techniques of active listening or reflective listening and their emphasis on paraphrasing, summarizing, and related skills. Clearly, these techniques, when used by disputants or mediators, can often be very helpful in resolving conflict. The "techniques" of listening skills, however, can also get in the way of genuine dialogue, particularly when their use leads to the inability to honor and feel comfortable with silence, to deeply reflect upon what is being said, and to reflect upon what you (the mediator) are feeling and experiencing in the present moment. The clearest example of technically accurate reflective listening skills inhibiting genuine communication is when a mediator paraphrases every bite-size chunk of verbal conversation in such a way that the disputant experiences it as intrusive and insensitive, if not obnoxious.

Genuine dialogue, in which people feel safe enough to speak and listen in a nondefensive manner, requires skills and a life perspective that many non-Western indigenous cultures are far more comfortable with than we in the West are; that is, speaking and listening from the heart, as well as feeling comfortable with and honoring silence. The basic elements of dialogue as promoted in Western culture (Teurfs and Gerard, 1993) consist of suspension of judgment; listening as the key to perception; identification of assumptions; maintaining an attitude of learning and a spirit of inquiry; looking within one's self; keeping the focus on context and meaning; and releasing the need for outcomes.

After many years of application in diverse settings, the field of mediation now faces a wonderful opportunity to build on the many anecdotal stories of how mediation periodically has often been far more than simply working out a settlement. By moving from a settlement-driven to a dialogue-driven approach to mediation, the practice of mediation can intentionally and more consistently tap into its transformative and healing powers. These healing powers are intrinsic to the process of mediating conflict between individuals but need to be consciously drawn out and utilized.

The potential of effective conflict resolution to promote healing of relationships within communities rather than just immediate resolution of problems between individuals is particularly well grounded in the traditions of many indigenous people throughout the world. The practice of ho'oponopono by native Hawaiians (Shook, 1989), family group conferencing by Maori people in Australia (Alder and Wundersitz, 1994), and healing circles and other practices among aboriginal and First Nation people in Canada (Griffiths and Belleau, 1993) and Native Americans (LeResche, 1993) all provide beautiful examples of spiritually grounded forms of resolving conflicts through a journey of healing and peacemaking. As Diane LeResche (1993) points out, "at its core, Native American peacemaking is inherently spiritual; it speaks to the connectedness of all things; it focuses on unity, on harmony, on balancing the spiritual, intellectual, emotional and physical dimensions of a community of people" (p. 321). These principles of balance have also been adapted by tribal leadership in Canada (Huber, 1993) for use in urban tribal settings, using the traditional symbol of the medicine wheel.

Within Western culture, the transformative dimensions of mediation have been eloquently described by Bush and Folger (1994) in their widely acclaimed book *The Promise of Mediation.* They emphasize the importance of genuine empowerment and mutual recognition of each party's humanity in addition to the value of compassionate strength among parties in conflict. Bush and Folger emphasize that through empowerment parties grow calmer, clearer, more confident, more organized, and more decisive. They regain a sense of strength, of being able to act and handle life's problems. Through recognition, the parties in conflict voluntarily choose to become more open, attentive, and responsive to the situation of another, thereby expanding their perspective (if expanded) to include an appreciation for the circumstances that the other person is faced with. Whether an actual settlement occurs is quite secondary to the process of transformation and healing that occurs in their relationship. One of the most powerful, yet controversial to some, expressions of the transformative qualities of empowerment and recognition has been consistently observed in the small but growing application of mediation and dialogue between parents of murdered children and the offender (Molhan, 1996; Umbreit, 1995c). After lengthy preparation by the mediator, involving multiple individual meetings, the parties frequently experience each other's humanity (despite the evil and traumatic event that has occurred, as well as the inconsistency of some facts) and gain a greater sense of closure through a genuine dialogue about what actually happened and its impact on all involved.

A specific application of transformative mediation practice that is particularly suited to family, community, workplace, and victim-offender mediation is the humanistic model of mediation (Umbreit, 1995c). In fact, the elements of a humanistic model are grounded in the experience of many

mediators over the years and have been applied in areas ranging from family conflict to criminal conflict involving such offenses as burglary, theft, and minor assaults. Instead of the highly directive settlement-driven model practiced widely in civil court settings, a humanistic mediation model is very nondirective and dialogue driven. It prepares the parties, through separate premediation sessions with the mediator, so that they feel safe enough to have an opportunity to engage in a genuine conversation about the conflict, to experience their own sense of empowerment, and to express what Bush and Folger call "compassionate strength," including empathy for the other party in the conflict. The emphasis is on the mediator facilitating a dialogue that allows the parties to discuss the full impact of the conflict, to assist each other in determining the most suitable resolution (which may or may not include a written agreement), and to recognize each other's common humanity, despite the conflict.

A humanistic model of mediation, in some respects, parallels a humanistic style of psychotherapy or teaching, which emphasizes the importance of the relationship between the therapist and client or teacher and student and embraces a strong belief in each person's capacity for growth, change, and transformation. Carl Rogers (1961), a pioneer in humanistic psychology, emphasized the importance of empathetic understanding, unconditional positive regard, and genuineness. Although his theories were developed in the context of psychotherapy, they have enormous implications for mediation practice and life in general.

Parties in conflict may be more likely to experience emotional benefits from the practice of humanistic mediation because of the healing that often occurs in the relationship encounter in the present. It is important to note, however, that such a process is not psychotherapy, nor does it require a mediator to have training in psychotherapy. Acknowledgment of brokenness or hurt is intrinsic to humanistic mediation. Working on that brokenness and dealing with the past emotional issues that have contributed to these feelings, however, is the domain of therapists, not mediators (Bradshaw, 1995; Kelly, 1983).

Underlying Values

A humanistic mediation model is grounded in underlying values and beliefs about the nature of human existence, conflict, and the search for healing, as follows:

- Belief in the connectedness of all things and our common humanity
- Belief in the importance of the mediator's presence and connectedness with the involved parties in facilitating effective conflict resolution
- Belief in the healing power of mediation through a process of the involved parties helping each other through the sharing of their feelings (dialogue and mutual aid)

- Belief in the desire of most people to live peacefully
- Belief in the desire of most people to grow through life experiences
- Belief in the capacity of all people to draw upon inner reservoirs of strength to overcome adversity, to grow, and to help others in similar circumstances
- Belief in the inherent dignity and self-determination that arise from embracing conflict directly.

Practice Implications

In order to consistently embrace a more humanistic model of mediation, a number of significant changes in the dominant Western European model of mediation are required. Although clearly not capturing the full spiritual richness of many traditional practices of indigenous people, these changes in the dominant Western European model of mediation will lead to a more transformative and healing experience of mediation. Each change in the practice of mediation that is necessary to more closely follow the humanistic model will be discussed in greater detail but is outlined here:

- Centering. Clearing the mind of clutter and focusing on the important peacemaking task at hand.
- Reframing the Mediator's Role. Facilitating a process of dialogue and mutual aid instead of directing a settlement-driven process.
- Conducting Premediation Sessions. Listening to each party's story, providing information, obtaining voluntary participation, assessing the case, clarifying expectations, preparing for the mediation.
- Connecting with the Parties. Building rapport and trust beginning in premediation phase.
- Identifying and Tapping into Parties' Strengths. Beginning in premediation phase.
- Coaching on Communication. If required, during premediation sessions.
- Using a Nondirective Style of Mediation.
- Face-to-Face Seating of Victim and Offender. Unless inappropriate because of culture of parties or individual request.
- Recognizing and Using the Power of Silence.
- Conducting Follow-up Sessions.

Centering

A humanistic mediation model emphasizes the importance of the mediator clearing away the clutter in his or her own life so that he or she can focus intensely on the needs of the involved parties. Prior to initiating contact between people in conflict, the mediator(s) is encouraged to take a few moments of silence, through reflection, meditation, or prayer, to reflect on the

deeper meaning of his or her peacemaking work and the needs of the people in conflict. The centering of the mediator throughout the entire process of preparation and mediation also helps the parties in conflict to experience it as a safe, if not sacred, journey toward genuine dialogue and healing. Through the practice of centering, the humanistic mediator is more likely to stay grounded in a deeper sense of spirituality that recognizes the interconnectedness of all people (regardless of our many differences) as well as the sacred gift of human existence.

Reframing the Mediator's Role. Tapping into the full power of mediation in resolving important interpersonal conflict reframes the mediator's role. Instead of actively and efficiently guiding the parties toward a settlement, the mediator assists the parties to enter a dialogue with each other, to experience each other as fellow human beings, despite their conflict, and to seek ways to help them come to understand and respect their differences and to arrive at a mutually acceptable way to deal with those differences. This may or may not involve a formal written settlement agreement. Once the parties are engaged in a face-to-face conversation, the mediator intentionally gets out of the way. For example, the mediator might pull his or her chair back further away from the table and adopt a more informal posture. It should be noted that rarely does the mediator totally get out of the way, never saying anything or intervening to redirect communication. This is especially true during the later stages of mediation when the parties in conflict may need assistance to construct a formal settlement agreement if one is needed. In all cases, it is important for the mediator to provide a brief closing statement that thanks the parties for their work and schedules a follow-up meeting if necessary.

Conducting Premediation Sessions. Routine use of premediation separate sessions with the involved parties should become a standard practice. These individual sessions should occur at least a week or more before the mediation session. Collection of information, assessment of the conflict, description of the mediation program, and clarification of expectations are important tasks to complete. The first and most important task, however, is that of establishing trust and rapport with the involved parties. The development of trust and rapport enhances any dialogue process, but is particularly beneficial in intense interpersonal conflicts. For this reason, the mediator needs to get into a listening mode as quickly as possible during the initial meeting, inviting the involved parties to tell their stories of the conflict and how it affects them. Clearly explaining how the mediation process works and what they might expect to experience will likely put the involved parties at ease.

Connecting with the Parties. A far greater emphasis needs to be placed on the mediator establishing a connection with the parties in the conflict. Instead of viewing mediators as technicians who are emotionally distant and uninvolved with no prior contact with the involved parties, emphasis would be placed on mediators establishing trust and rapport with the involved par-

ties before bringing them to a joint session. A mediator does not need to lose his or her impartiality in order to effectively connect with the involved parties before bringing them together. The art of mediation, as well as teaching, nursing, therapy, and social work, is found in connecting with people at a human level through the expression of empathy, warmth, and authenticity. The late Virginia Satir, a world-renowned family therapist, teacher, and trainer, recognized the supreme importance of the "presence" of the therapist. Authentic human connection was regarded by Satir as being fundamental to change processes (Gold, 1993). Making contact with people on a basic human level requires "congruence," a condition of being emotionally honest with yourself in which there is consistency in your words, feelings, body and facial expressions, and your actions. Authentic connection with others, through therapy or mediation, first requires looking inward. According to Satir (1976), there are four key questions.

1. How do I feel about myself? (self-esteem)
2. How do I get my meaning across to others? (communication)
3. How do I treat my feelings? (rules)
   - Do I own them or put them on someone else?
   - Do I act as though I have feelings that I do not or as though I don't have feelings that I really do?
4. How do I react to doing things that are new and different? (taking risks)

The process of connecting with those involved in mediation takes energy. As Satir points out, "making real contact means that we make ourselves responsible for what comes out of us." Although Satir developed her concepts of making contact and congruence within the context of family therapy, her material is highly relevant to a humanistic model of mediation. Humanistic mediators can have a powerful presence with their clients, as Virginia Satir did, through a more spiritual understanding of life that embraces the connectedness of all people along with the connectedness of the mediator's actions and belief system with the core of his or her being.

Building on the earlier work of Virginia Satir, Lois Gold (former chair of the Academy of Family Mediators) identifies four specific elements of presence that can increase the effectiveness of mediators: (1) being centered, (2) being connected to one's governing values and beliefs and highest purpose, (3) making contact with the humanity of the clients, and (4) being congruent (Gold, 1993).

Identifying and Tapping into Parties' Strengths. When people become engaged in conflict, it is common for them to communicate and interact in highly dysfunctional ways. The careless expression of intense anger and bitterness along with the inability to listen to the other party or effectively communicate their own needs can mask many strengths that they may have. It is the mediator's task, during separate premediation sessions, to learn the

communication style of each party and identify specific strengths that may directly assist in the mediation-dialogue process and to encourage the expression of those strengths in mediation. An example would be a mediator discovering that an individual has a difficult time responding to questions of a global, if not abstract, nature, such as "How are you feeling about all of this?" When asked more concrete questions related to the individual's specific experience, however, he or she may feel quite comfortable responding. Tapping into the strengths of individuals and coaching them in how to effectively communicate their feelings can contribute greatly to the mediator's ability to use a nondirective style of mediation as noted in the following section.

Coaching on Communication. The open expression of feelings related to the conflict is central to a humanistic mediation model. Because of the extreme intensity of those feelings, it may become necessary during the separate premediation session for the mediator to coach the disputant on helpful ways of communicating those feelings so that they can be heard by the other party. Coaching one or both parties on the communication of intense and potentially hurtful feelings may be required. This coaching focuses on how to own one's feelings rather than projecting them onto the other party. Projecting intense feelings through aggressive communications often will trigger defensiveness in one or both parties and shut down honest dialogue. To avoid this, the speaker needs to own his or her feelings and communicate them as an "I" statement rather than attacking the other party. Furthermore, through coaching the mediator works to help identify and tap into the strengths of each of the parties in conflict, despite any emotional baggage that is present. In the process of coaching, however, the mediator is careful not to suggest what specifically should be said.

Nondirective Style of Mediation. The practice of humanistic mediation requires a nondirective style of mediation in which the mediator assists the involved parties in a process of dialogue and mutual aid, of helping each other through the direct sharing of feelings and information about the conflict with little interruption by the mediator. The mediator opens the session and sets a tone that will encourage the parties in conflict to feel safe, understand the process, and talk directly to each other. The mediator's ability to fade into the background is directly related to having connected with the parties before the joint session and having secured their trust. Without routine use of one or more separate premediation meetings with the parties in conflict, it is unlikely that a truly nondirective style of mediation can be employed. It is also unlikely that the parties will be able to participate in a process of dialogue and mutual aid unless they trust the mediator, are prepared for the process with clear expectations, and feel safe and reasonably comfortable.

A nondirective style of mediation is not meant to be confused with a passive style in which the mediator provides little direction, leadership, or assistance. Instead, the mediator remains in control of the process and, although saying little, is actively involved nonverbally in the encounter and is able to respond or intervene at any point required, particularly when people get stuck

and indicate a need for assistance. By setting a clear and comfortable tone, the parties are put at ease so that they can talk directly to each other and a far more empowering and mutually expressive form of mediation can then be experienced by the involved parties. This style of mediation, which can only be used effectively if the mediator conducts separate premediation sessions, will frequently result in the mediator saying very little after the opening statement.

Face-to-Face Seating of Involved Parties. Seating arrangements during a mediation session are important. Routine use of a seating arrangement in which the involved parties are sitting across from each other, allowing for natural eye contact, is central to the process of direct communications and dialogue. If a table is required, the mediator(s) would be at the end and the parties in conflict would sit across from each other. A major blockage to mediator-assisted dialogue and mutual aid occurs when the involved parties are seated next to each other behind a table facing the mediator, who is on the other side of the table. A clear exception to this arrangement is when, because of the culture of one or both parties or personal preference, such seating would create discomfort, if not offensiveness, and therefore would be inappropriate.

Recognizing and Using the Power of Silence. Moments of silence in the process of dialogue and conflict resolution are inherent to a nondirective style of mediation. Recognizing, using, and feeling comfortable with the power of silence (qualities that are more commonly found in non-Western cultures, as noted previously) is important to the humanistic mediation process. By honoring silence and patiently resisting the urge to interrupt silence with guidance or questions (by, for example, slowly counting to ten before speaking), the mediator is more consistently able to assist the involved parties in experiencing mediation as a process of dialogue and mutual aid—a journey of the heart in harmony with the head.

Conducting Follow-up Sessions. Follow-up joint sessions between the parties in conflict are central to a humanistic mediation model. Because of the nature of conflict and human behavior, problems are often far too complex to resolve in only one session, particularly when the conflict involves an important relationship. Oftentimes, the full range of issues and concerns cannot be addressed in only one session. Even in those cases when the conflict is largely resolved in one session, conducting a follow-up session several months later to assess how the agreement is holding or to resolve any issues that may have emerged can be important in the overall process of healing and closure.

The Paradigm of Healing

A humanistic, dialogue-driven model of mediation is grounded in what Lois Gold (1993) describes as a paradigm of healing. She identifies twelve characteristics that differentiate the paradigm of healing from the more well-entrenched paradigm of problem solving with its settlement-driven emphasis (see Table 1).

Table 1. Comparison of Problem-Solving and Humanistic Mediation

	Classic Problem-Solving Mediation	*Humanistic-Transformative Mediation*
Primary focus	Settlement driven and problem focused.	Dialogue driven and relationship focused.
Preparation of parties in conflict	Mediator has no separate contact with involved parties prior to mediation. Intake staff person collects information.	Mediator conducts at least one face-to-face meeting with each party prior to joint mediation session. Focus is on listening to their stories, building rapport, explaining the process, and clarifying expectations.
Role of mediator	Directs and guides the communication of the involved parties toward a mutually acceptable settlement of the conflict.	Prepares the involved parties prior to bringing them together so that they have realistic expectations and feel safe enough to engage in a direct conversation with each other facilitated by the mediator.
Style of mediation	Active and often very directive; mediator speaks frequently during the mediation session and asks many questions.	Mediator is very nondirective during the mediation session. After opening statement mediator fades into the background and is reluctant to interrupt direct conversation between parties. Mediator is not, however, passive, and will intervene if parties indicate a need.
Orientation to emotional context of conflict	Low tolerance for expressions of feelings and the parties' storytelling related to the history and context of the conflict.	Mediator encourages open expression of feelings and discussion of the context and history of the conflict. Recognizes the intrinsic healing quality of storytelling when speaking and listening from the heart.
Moments of silence	Few moments of silence. Mediator is uncomfortable with silence and feels the need to speak or ask questions of the parties.	Many prolonged moments of silence. Mediator is reluctant to interrupt silence and honors silence as integral to genuine empowerment and healing.
Written agreements	Primary goal and most likely outcome of mediation. Agreements focus on clear, tangible elements.	Secondary to the primary goal of dialogue and mutual aid (the parties helping each other through the sharing of information and expression of feelings). Agreements may often focus on symbolic gestures, personal growth tasks, or affirmations of the new relationship between the parties.

1. Demonstrating caring, nonjudgmental acceptance of the person's humanity
2. Building rapport and emotional connection . . . "being there"
3. Helping people listen to their innate wisdom, their preference for peace
4. Generating hope . . . "with support, you can do it"
5. Tapping into the universal desire for wellness
6. Speaking from the heart
7. Thinking of clients in their woundedness, not their defensive posture
8. Being real and congruent
9. Creating safe space for dialogue
10. Creating a sacred space
11. Recognizing that a healing presence does not "fix it"
12. Understanding that a healing presence acknowledges brokenness and shares the journey.

Although this conceptual framework has grown out of her extensive experience as a family therapist and mediator, the paradigm of healing presented by Gold (1993) has enormous implications for humanistic mediation practice in any context in which the nature of the conflict relates to broken relationships. This is particularly so in those cases in which one or both parties are grieving the loss of a relationship that once existed, whether this was among colleagues at work, friends, spouses, partners, parents and children, or neighbors. It is also highly relevant in response to the needs of many crime victims and offenders who, although most often unknown to each other, are suddenly in a type of situationally induced relationship (certainly not by the victim's choice) because of the nature of the criminal act and its effect on their lives. Crime victims, particularly in more serious offenses, often are grieving the loss of a sense of safety, if not invulnerability, that has been shattered because of what has occurred. Understanding and practicing humanistic mediation in the context of the paradigm of healing offered by Gold (1993) is ultimately grounded in a profound recognition of the precious gift of human existence, relationships, community, and the deeper spiritual connectedness among all of us in our collective journey through this life, regardless of our many religious, cultural, political, and lifestyle differences. Lois Gold describes the language of healing as the language of the soul, not the language of problem solving.

Conclusion

The dominant model of settlement-driven mediation in Western culture is clearly beneficial to many people in conflict and superior to the adversarial legal process and court system in most cases. Using a different model, one that embraces the importance of spirituality, compassionate strength, and our common humanity, holds even greater potential. As an expression of the transformative power of conflict resolution, a humanistic mediation model can lay the foundation for a greater sense of community and social harmony. With its focus

on the intrinsic healing power of mediation and dialogue, this model can bring a more complete resolution to the conflict. Through a process of dialogue and mutual aid between the involved parties, humanistic mediation practice facilitates the achievement of outer peace. It addresses and often resolves the presenting conflict while also facilitating a journey of the heart so that participants may find inner peace. Real peace is the true goal of humanistic mediation.

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