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Conflict Case Studies

Title

Case Study #4: Empathy: Effective Response with Escalating Aggression

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CIAS WORKING PAPER

Cover Sheet

Readers are encouraged to send comments and critiques directly to the author. Because of this text's deliberate "one-of-a-kind" format, detailed page-by-page comments and questions are welcome. This paper presents Case Study #4, in a series of case studies for a future conflict resolution textbook. An "Introduction to Conflict Case Studies" is available to guide use.

The text has been successfully piloted with several international classes. Those, who benefit most, stress the importance of carefully studying the introduction. Because the case study format is intentionally unique, written in an interactive and non-linear workbook style, unlike many introductions, the information provided is required for understanding. The introduction is so critical to effective use, the most important paragraphs are repeated at the beginning of each case study. Confused readers are encouraged to read the "Introduction to Conflict Case Studies" in its entirety.

Readers report rich reward when they approach the case studies in the interactive workbook style recommended, and, for example, take time to reflect on questions; add their own opinions and interpretations. They also do the activities, applying conflict research, theory and approaches presented, to case study and personal experience. Their main challenge is accepting that thorough analysis and practice can take a lifetime.

The author is particularly interested in comments that will help instructors and individual users around the world fully understand and effectively use the text's curriculum for important social change. For example, would you suggest an instructor's guide?

Please also let the author know what appreciated and would like to see "more of" in future texts. These case studies are part of a larger vision for evaluating and sharing effectiveness with leading non-violent peace and conflict resolution efforts. The author would appreciate hearing your "success stories" and the most troubling challenges (including ethical and cultural) that you face. Thank you and best wishes.

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Title: Holding These Truths: Empowerment and Recognition in Action (Applied ethics & diverse cultural perspectives for advanced conflict resolution)

Source: Proposed textbook prepared for the William and Flora Hewlett Foundation

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“Introduction to Case Studies:” Excerpts

A teaching case is a story, describing or based on actual events and circumstances, that is told with a definite teaching purpose in mind and that rewards careful study and analysis...

In the real world, the solutions to complex problems cannot be found in textbooks nor will everyone agree on the “right answers” to difficult questions. The case method prepares learners for a world that demands critical thinking skills and the ability to create convincing arguments, often with little time and incomplete information.

Laurence E. Lynn Jr. *Teaching & Learning With Cases* (1999).

Readers may feel somewhat disoriented, confused, and, even a little anxious, when they first read case studies, especially if they are accustomed to texts that present information in a linear logic. In the latter, points are described step-by-step and connected with explanations.

Here, however, each case study deliberately goes back and forth between describing 1) important case study facts, 2) conflict and resolution theory, 3) ethical perspective, 4) cultural views, 5) questions for the reader, and 6) application opportunities for reader analysis. No explanation is provided; so readers are likely to miss valuable learning unless they carefully read and respect the interactive suggestions. The reader is expected to develop her or his own thinking by, for example, actively asking: What is the possible connection or relevance of this information? What do I think? What are my reasons? What options exist there? What criteria do I propose for evaluating alternatives?

(I)ntermediaries can learn from experiences in dealing with past conflicts, but there is no model that can be applied to all cases. The unique features of each must be examined carefully and adjustments in strategy made throughout the process, which is invariably complex and sensitive.

Olara A. Otunnu & Michael W. Doyle, *Peacemaking and Peacekeeping for the New Century* (1998).

WHAT TO DO WITH MISSING OR VAGUE INFORMATION

Case studies are often open-ended, or incomplete, to emulate real life ambiguity and complexity, and help users develop critical thinking and confidence required in the face of challenge and uncertainty—particularly these cases. These are concept, principle and process application cases, rather than decision-forcing, policy making or illustrative cases. For readers new to case studies, decision-forcing cases require actual decision, with simulated pressure. Lynn, *supra*. Policy making cases direct the creation of framework or processes for policy making. Illustrative cases record historical success and failure. Application cases, however, focus on increasing student skill, without necessarily requiring decision. Decision-forcing, policy making and illustrative cases necessarily contain more descriptive and substantive detail than application cases. *Id.*

These cases are deliberately even more open-ended than many application cases, with sparse facts, for several reasons. First, they intend to teach and guide advanced conflict resolution skills, including the ability to identify important information gaps and “fill them” through, for example, framing excellent questions and acute observation. In real circumstances, particularly complex ones, conflict intervenors, like detectives, face many unknowns. They must be willing and have the courage to navigate uncharted waters. Oftentimes only seasoned judgment (their own and respected colleagues) is available for determining whether understanding is sufficient.

I wanted more specifics about the original conflict to begin with, but I also understand that some of the ambiguity is simply how one has to enter conflict scenarios. We will probably never hold all the pieces of information when we start. Discovery is part of the process. This is definitely a powerful process. (Anonymous student)

Second, responses to complex ethical and cultural dilemmas are dynamic and evolving; not solutions to be described or finalized, with simple logic or reference to expert authority. As one student commented, these are the questions with “no answers.” They require extended, perhaps life-long, reflection and dialogue, and, most importantly, consciousness of real world consequences, after attempted practice. Readers should feel no pressure to reach conclusions or provide answers. Questioning, reflection, discussion and awareness are the desired results.

(P) Peacemaking is marked by experimentation. There is no right way to go about creating peaceful communities and a peaceful world. Working for peace will differ according to context.

Herr & Herr, *Transforming Violence: Linking Local and Global Peacemaking* (1998).

With cultural issues, majority and minority are used to avoid the stereotyping that unfortunately still too often accompanies specific labels. The open-ended cases allow readers to introduce, discuss and show their own cultural experiences and preferences with each other. With my students, this has been a much appreciated opportunity to create multicultural community and interdisciplinary dialogue, in relatively low-risk environments (at least in contrast to discussions in the heat of conflict.)

In my last multicultural conflict resolution class at the University of California, Berkeley, more than eighty percent of my students identified with one or more minority groups within and outside the United States. Several have dual citizenship. They are citizens of Argentina, Australia, Belize, Bulgaria, China, Costa Rica, Cyprus, Finland, French Polynesia, India, Iran, Mexico, Nigeria, Pakistan, Peru, Romania, Thailand, Turkey, and more than forty additional countries.

Everyone attempts to identify, describe and explain their own cultural experience, assumptions, values and preferences as they participate in conflict resolution process. Ideally, the result is truly inclusive. At least, participants are empowered.

The ideal response is like one elicited with a Hmong student. One of the case studies resonated with her experience in the United States as a first generation immigrant and the first member of her family to feel comfortable speaking English. As a result, she spoke in great detail about her family’s multicultural challenges and conflicts.

Readers are invited to reference and consider their own life experience with conflict whenever analyzing and discussing case studies. This engagement raises readers to the level of “peer partners” or “experts” with cases, and prepares them for whole-hearted participation in future role-play simulations.

The text is written so that no particular background or training is required or has an advantage. This is important with multicultural dialogue, where members of various cultural groups may be sensitive to others “speaking for them.” Others may simply stay quiet in the presence of authority. Still others might react with offense, angry accusation and heated debate. None of these responses promote the open, reflective and inclusive dialogue and learning desired here.

Once again, the purposes of this collaborative partnering are to fully engage readers in true life dynamics and maximize development of advanced skill and awareness. Unlike simpler negotiation exercises, where participants can be given a factual, even mathematical, formula for resolution, complex intergroup exercises require participant creativity, prolonged discussion, initiative and persistence. Developing necessary skills and attitudes may be the most realistic and important outcomes with complex, tough case studies.

These case studies have been field-tested with many different groups, ages eight to sixty, representing diverse groups within and outside the United States, and a wider range of interests, disciplines and professions. They include peace and conflict studies, social welfare, various sciences, public health and policy, psychology, pre-medicine, nursing, law, environmental and development studies, engineering, ethnic and area studies, education, communications, business and political science. The issues raised in these cases are relevant and meaningful to most, partially because the detail provided is only what is essential to introduce issues for exploration. More technical details risk excluding less knowledgeable participants and narrowing the audience, while “cluttering” the ethical and cultural issues shared across the conflict resolution continuum.

Readers are free to adapt the cases to their own interests through integrating their knowledge and experience, or researching topics of interest. Some students have done interviews regarding culture, conflict and values. Others incorporate library and internet research.

Commentary is provided throughout the cases to help readers consider, apply and integrate relevant interdisciplinary approaches to and diverse perspectives regarding conflict resolution. An attempt is made to highlight and introduce some of the richest resources for advanced practice from a practitioner perspective. Commentary, questions and exercises are interwoven throughout the cases, rather than at the end, to further engage readers, simulate real world reflection and analysis, and guide readers in regular application of conflict theory, research and materials—also a habit and practice of advanced intervenors, popularly called reflective practice.

Like the cases, commentary is provided without explicit guidance or explanation. Readers are encouraged to continue proactively developing their own questions and thinking as they would in real circumstances, imagining ways of connecting the commentary to case material. At the very least, articulating one or more questions, regarding how the material relates to the case study, will engage the reader in necessary critical thinking, initiative and information gathering. The more complex the case, the more important these skills become.

In some ways, conflict resolution cases are analogous to business administration cases. Unlike law or medical cases, business and conflict cases lack a well-defined professional knowledge base and formal logical processes for application.

Lynn, *supra* at 10-11 (citing Christensen with Hansen 1987, 25). (“In less institutionalized domains, such as administration, social work, planning and education, the question of what constitutes “essential knowledge” is far less clear; indeed, it may be difficult to rule out any but the most esoteric or specialized knowledge as relevant to practice. In such domains, “structuring” a well-defined body of knowledge is a less essential skill than identifying knowledge potentially relevant to resolving the problem at hand.” *Id.*)

SECTION III: ADDRESSING VIOLENCE

Case Study Topics (In Order Presented)

**Assessing the Appropriate Conflict Resolution Response (Intervention)
Justice**

Neutrality

“Suspending Judgment”

“Separating People from Problem”

Trained Incapacity/Self-Fulfilling Prophecy

Defensive versus Supportive Communication Environments:

“Perspective-Taking” (Understanding) &

Accurate Diagnosis: Optimal Information Gathering, Conflict Strategy & Decisionmaking

Recognition of “Other”

Respect

Kant’s Categorical Imperative

Feminist Ethic of Care

Buber’s I-Thou Dialogue

Buddhism: Loving Kindness

Carl Rogers’ Research

Unconditional Regard

Empathy

Paraphrasing at Level of Emotions

Scapegoating

Case Study #4: Empathy: Effective Response with Escalating Aggression

Background

You are a mediator who worked with angry and dangerous clients in earlier social service and legal practices: gang members, felons, and other perpetrators and victims of violence, adult and child, in homes and schools. You trained in mediation with a renowned family mediator, who told of leaving his family law practice to become a mediator after one of his clients was shot by her husband during their divorce.

APPLICATION

- **Do you know how to identify truly dangerous people? If not, what would motivate you to wonder if someone might behave dangerously? How would you investigate?**
- **Note: Readers unfamiliar with criminology and other fields studying dangerous and violent behavior may be somewhat confused when reading this case, but there is no need to understand any specialized knowledge to complete the case study questions and activities. All essential information is provided.**
- **Readers interested in learning more and doing their own research may wish to start creating lists of: 1) questions of interest, 2) friends and acquaintances who know more about these fields, and 3) other research interests.**

Scenario Introduction

Human resources, at a government agency, calls you alarmed (hereinafter “contact #1”). “Someone might get hurt” are a recently fired employee (hereinafter “employee”) is quoted as saying to union representatives. Several co-workers know this employee owns guns. Shortly after his comment, security officers stopped allowing the employee to enter workplace grounds. Regardless, union members are still afraid.

After filing several grievances with the union and a discrimination claim with the Equal Employment Opportunity Commission, the employee mentions a desire for mediation and a face-to-face meeting with all concerned. You agree to call the employee and other concerned parties and gather information to assess appropriateness for mediation.

Ethical Reflection

- **What training and experience are necessary to be qualified to assess mediation’s appropriateness when violence is feared?**
- **Have you heard “There can be no peace without justice?” Assuming the statement’s truth and value, at least to some extent and in the right circumstances, how do you define justice? Determine?**

CONFLICT PROCESS

At the beginning of intervention with conflict, such as mediation, the third party assesses what is necessary to proceed ethically and effectively. Key is examining the conflict's "big picture" or context. Concrete consequences of broader dynamics must be noticed and considered.

In the opinion of many, violence is the ultimate manifestation, or the peak, of destructive and undesired dynamics, with conflict. When a conflict or the conflict's system (broader context) threatens violence, a thorough in-depth assessment is critical.

Second Stage

You phone concerned parties (whose names and numbers are provided by "contact #1"): the union president and a few union stewards, the employee, the employee's former supervisor (who terminated the employee), the manager who leads the employee's former division, and the employee's lawyer. During each conversation you ask if anyone else should be involved.

The employee informs you he only trusts two people in the organization, an ethics officer (senior member of Human Resources) and a secretary. You call and interview both.

The employee talks to you the longest period of time. He informs you that he is a veteran and plans to publicize his termination nationally as part of a greater conspiracy against veterans. Here review his list of grievances in detail.

He makes no statement, direct or indirect, about hurting anyone. You decide to meet in person. The employee says she also needs to meet you before deciding whether to proceed with you as mediator.

You arrange personal meetings and in-depth interviews with several of the employees described. The impression you receive from all interviewed (except for the employee himself) is this employee was a long-term problem and troublemaker.

The personnel file you receive a few days after your conversations documents a series of performance errors and possible defiance. For example, during a technical experiment involving goldfish, the employee drained their pond.

All concerned parties are interested in trying mediation.

Ethical Exploration

➤ **Do the above facts raise any ethical issues? For example, the majority of those interviewed appear to be supervisors or management. Discuss power dynamics.**

➤ **Consider this perspective: Since the mediator is employed by HR (human resources), does/he in fact have the job of "making this conflict go away" or at best "lowering to routine court procedures?" Discuss neutrality.**

Third Stage

At this request, you agree to meet the employee in the smoking section of a local restaurant. He appears tense and shaky, smoking several cigarettes during your meeting. Here repeat everything that he said during your phone conversation and stresses, again and again, his willingness to fight until justice is served. When you attempt to respond, he often interrupts and repeats himself. He appears enraged and traumatized but, once again, makes no statement about hurting anyone. His focus appears to be on his grievances and lawsuit.

He informs you that he was fired after almost twenty years of employment. He is married, with three young children.

You ask if he is interested in meeting with other concerned parties to discuss ground rules and otherwise explore the possibility of mediation. He says yes but mentions he has an attorney who will need to be present. You ask for permission to speak with his attorney, which he gives.

Questions

- **Can you suspend judgment with the parties and circumstances described? Discuss challenges and questions.**
- **Can you imagine any reasons for or benefits from trying to suspend judgment? Risks?**

Conflict Theory

Along with the recommendation to “focus on interests, not positions” explained in case #2, popular “win-win” conflict resolution advocates separating people from their problem. Fisher and Ury, *supra*. How this principle, and the related practice of suspending judgment, are applied in practice will be explored later in the case study, but the following theory helps explain some of their rationale.

In perceived and actual conflict, parties may revert to habitual behaviors, regardless of consequence. One explanation is that we reassure and comfort ourselves with familiar habits, and even use them to feel a (false) sense of mastery when anxious about conflict. Unfortunately, habitual, or “trained in capacities” often escalate and worsen aggressive conflict. Self-fulfilling prophecy may result. 1

Self-fulfilling prophecy describes those times when we are truly “our own worst enemy.” For example, I assume you are belligerent and proceed to treat you in a hostile way. I thereby provoke actual belligerence from you --- in response to my hostility. I then use belligerence I provoked to confirm (or prove!) my original assumption that YOU are belligerent. See, David W. & Frank P. Johnson, *Joining Together: Group Theory & Group Skills* (6th ed. 1997).

Cultural Perspective

Conflict Metaphor

By Christine Heymann, Germany

Energy. Good vibrations in every nerve, in every muscle. I stretch my wings, I am ready to fly, not alone, the others are with me, we are a group and individuals at the same time. The sky is big and blue, we are ready to explore its wilderness. The world is great, the possibilities offered to us are various, endless. But I am not scared, I am not alone, the others are with me.

A competition, a race! Who is first? My eyes concentrate on the finish, my muscles contract, I can feel the blood pulsing through my veins. Go, go, go! Everyone of us wants to be first, but at the same time we need each other. What sense would it make to race alone? It is good that I am not alone, the others are with me. I feel plain joy.

Suddenly a shot. First I am surprised. I am hurt! I didn't expect that to happen. I am spinning, falling, the Earth is getting nearer and nearer. When I hit the ground, it is painful and hard. I look around. Where are the others? I am alone. Suddenly the surrounding is not only new, but scaring.

Now somebody is coming. A knight. I don't know who he is, his whole body is armoured with steel, his face is hidden behind a visor. I can hardly avoid his first attack, not knowing why he is doing this at all.

1 See, e.g. Ernst Gunter Beier, *The Effect of Induced Anxiety on Flexibility of Intellectual Functioning*, Psychological Monographs: General and Applied (Herbert S. Conrad, ed., 1951), Irving L. Janis & Leon Mann, *Decision-Making: A Psychological Analysis of Conflict, Choice and Commitment* (1977), C.F. Smart, W.A. Thompson & I. Vertinsky, *Diagnosing Corporate Effectiveness and Susceptibility to Crises, Studies on Crisis Management* (C.F. Smart and W.T. Stanbury, ed. 1978), Ernest Hilgard & Gordon Bower, *Theories of Learning* (1966); see also Federal Emergency Management Agency, *supra*.

I am forced to armour myself, too. My blood is boiling, my heart beats faster, I hide my real emotions and personality behind an armour of anger and rage. My face is calm. I have closed my visor, only my eyes are visible, glowing, showing my rage and my hidden fears. I don't want this, the armour is so heavy, it makes me stay on the ground although I want to fly. At the same time my rage takes over me. I did not harm this guy, why is he attacking me? I didn't start this, but now I am armed and prepared. Am I?

Where are the others? Whose defends my back?

And I need a horse. A knight should have a horse. The armour is so heavy, I can't move as quick with it as I would like. With a horse it would be easier. With a horse I could ride away and escape. Nobody could hurt me. I would stand a little... above the conflict. A horse would be warm and friendly, helpful although not being aware of it.

But I don't have a horse. I am completely alone. My feet stand heavily on the ground, I am not used to fight (ing) with a sword. My only chance is to kill with the first strike. I am ready for competition. But it is a different kind of competition than before, only painful rage, no joy. Before he is able to react, I push my sword in his throat. He falls to the ground. I have won. But I am not happy, only alone.

A conflict is not the same as a conflict. It can be energizing or hurting.

To be able to fly and join the others you have to get rid of your armour of rage and anger. But to leave the armour on the ground means you are unprotected. Everybody can hurt your personal emotions.

I want to fly, but I am scared.

APPLICATION

- **How do you interpret the above description?**
- **What are some of your trained incapacities?**

Developing Trained Capacities

- **When I observe myself "freezing" or otherwise pulling away from conflict, I planto:**

➤ **When I observe myself getting irritated or angry during conflict, I plan to:**

Some Suggestions: (If you need help choosing one, or more, of the styles described below, someone who knows you well, and who you trust, may be able to give you honest and supportive feedback.) Note: Many possible and constructive responses exist in addition to those suggested below.

“Exploders” (hot anger) Practice taking time -out when “triggered,” journaling thoughts, feelings, needs, and expressing self assertively rather than aggressively. Recommended: Weisinger, *supra*.

“Avoiders” & “Compromisers” Practice “staying with” or “going towards” conflict a little longer, i.e., takes some small risks with new behavior and journal about the experience (internal & external).

“Passive-Aggressors” 1) Acknowledge your resentment, aggression... along with fear; 2) journal simple sentences which clearly state what you need and want; 3) practice expressing them and otherwise taking action (responsibility) to meet your needs and desires; 4) journal about the experience (internal & external).

“Naggers” 1) Practice clearly asserting requests (once!); 2) identify other ways to meet your needs and desires independent of another's response; 3) if necessary, proceed with options. Recommended: Harriet Lerner, *The Dance of Anger: A Woman's Guide To Changing Patterns Of Intimate Relationships* (1989).

“Victims” 1) Identify your personal boundaries regarding how you wish to be treated during conflict, i.e. what behavior is appropriate and inappropriate ---- for example, you may feel that screaming is not acceptable; 2) communicate your boundaries to others in your life, preferably before you are in conflict with them; 3) enforce your boundaries as needed to protect and respect yourself. *Important Note: Unless law has been broken and law enforcement experts are involved, boundaries are most effectively enforced by taking action within your control, e.g. walking away, rather than futilely attempting to control others.*

For All

Look for role models in handling one of your top provocations; follow their example. Validate (give yourself credit for) efforts. Keeping a journal will help you see and recognize your progress. Developing new trained capacities often involves months, and even years, of practice and commitment, but even slight progress can reap important benefits for conflict resolution and deserves credit and encouragement.

- **As you read the case study descriptions, see if you can identify indicators of possible trained incapacities or self-fulfilling prophecy.**

Conflict Theory

One of the first steps necessary to avoiding self-fulfilling prophecy, destructive escalation, or reciprocity of trained incapacities is consciously recognizing and reversing destructive cognitive practices. (Some are described in cases #2 and #3.) The popular conflict resolution concept and practice of suspending judgment is one helpful way to do so. Perhaps a more accurate title is pre-judgment, or quick (“snap”) judgment based on one’s own world view, cultural experience, cognitive habits, life experience. Any prejudice, e.g. “All...” dehumanizes, hinders and possibly precludes actual experience with and understanding of the “other” as a human being.

A common misunderstanding equates suspending judgment with agreement or approval of inappropriate behavior. This leads to justifiable fear of being vulnerable to, and even tolerating, misuse and abuse of power, bad faith and other unethical conflict dynamics. The opposite is actually true. Before mediation is appropriate, good faith and other ethical conditions must be present or negotiated.

A commitment to suspend judgment, or be open to learning about each other as dynamic people, is necessary for parties to halt, or at least suspend, destructive dynamics. This commitment, often with an agreement against personal criticism and attack, aims to create the safe environment needed for good faith dialogue.

In studying groups, Gibb found defensive communication and climate with personal criticism and evaluation, along with destructive dynamics like superiority/inferiority positioning. He further found that groups with defensive climates wasted more time with ego-protecting discussions and accomplished less than those with supportive environments. Jack Gibb, *Defensive Communication*, 11 Journal of Communication 141-148 (1961) (Includes rejection, “cold silence” and other non-response, ridicule and discounting as examples of judgmental responses.)

Suspending judgment is essential if parties wish to fully understand each other’s perspective (“perspective-taking”). Analogous is the approach of a social scientist, such as an anthropologist, researching people and their interactions. Parties to conflict aim to suspend their subjective reactions, particularly “blindness,” so as to increase their objective understanding.

Aggressive and distorted response to conflict is not destructive simply because it damages the other. Distorted reaction hinders effective diagnosis or differentiation of conflict, and consequently, the formulation of strategy for best meeting **one’s own** needs. Distortion interferes with the comprehensive, in-depth information gathering necessary for optimal decision making. It promotes rigidity rather than the flexibility of creativity; increases the probability of conflict or issue avoidance. At its worst, distortion provokes aggression; self-fulfilling prophecy escalates destructive conflict.

In The Promise of Mediation, *supra*, Bush and Folger made popular the concept of party recognition as well as empowerment. While recognition of “the other” may sound like the nice thing to do, the truth is that recognition of “the other” corresponds directly with empowerment of “self.” The two practices depend on each other for optimal problem-solving.

Once parties more accurately understand each other, and have gathered all necessary information, judgment is unconsciously revisited and used for evaluating the best possible agreement or steps forward. This is one of the reasons Fisher and Ury, *supra*, talk about “separating people from the problem,” and “insist on using objective criteria.”

In one of my advanced conflict resolution classes, suspending judgment was the most popular choice for helpful behavior, outnumbering other helpful behaviors more than three times. The previously referenced international evaluation of conflict processes described positive climate as the second most important requirement for effectiveness. (Democratic treatment and participation ranked first.)

In this international survey, respect was the most popular way of describing positive climate. (Interestingly, fun, humour and play were close seconds.) Other words used to describe positive climate included support, serious interest and concentration, concern, trust, a cooperative attitude, and “good spirit. My multicultural conflict resolution classes at the University of California, Berkeley have stressed good faith, validation and appreciation, along with respect, consideration and serious commitment.

Questions

- **How can we respect and powerfully express ourselves yet remain open to and respectful of others?**
- **What is necessary to address the real risk of having openness and trust exploited?**
- **What does respect mean to you? In concrete terms? What does respect look like? Sound like? Are you aware of cultural and personal variations?**

Conflict Theory

Bush and Folger, *supra*, define recognition as “the evocation in individuals of acknowledgement and empathy for the situation and problems of others” or “an expanded willingness to acknowledge and be responsive to other parties’ situations and common human qualities.”

A party gives recognition... when

He experiences the realization that, beyond possessing the strength to deal with his own situation, he possesses the capacity to reflect about, and acknowledge in some way the situation of the other...

He realizes that he feels secure enough to stop thinking exclusively about his own situation and to focus to some degree on what the other party is going through...

He consciously lets go of his own viewpoint and tries to see things through the other party’s perspective...

Id.

Cultural Perspective

“Kindness will protect you.”

Client from Brazil

- **Discuss.**

Ethical Perspective

Popular ethical perspective promotes recognition. Kant is a new well-known example, with his second categorical imperative: "Always act so that you treat humanity, whether in your own person or in another, as an end, and never merely as a means." Brendan Liddell, Kant on the Foundation of Morality (1970).

The feminist ethic of care challenges morality based solely on reason or abstract principle, promoting compassion as the means to solve ethical dilemmas. Caring relationship is the ethical ideal. See, e.g. Nel Noddings, Caring: A Feminine Approach To Ethics And Moral Education (1984).

Martin Buber, existentialist and theologian, describes recognition in his vision of I-Thou dialogue. Participants are asked to give full concentration to bringing their total and authentic being to the encounter. They must demonstrate willingness to become fully involved with each other by taking time, avoiding distraction, being communicatively accessible, and risking attachment.

Avoid being an onlooker who simply takes in what is presented or an observer who analyzes. Rather, what is said to use enters meaningfully into our life; we set aside the harm used to thwart signs of personal address. The dialogic person listens receptively and attentively and responds readily and totally. We are willing to reveal ourselves to others in ways appropriate to the relationship and to receive their revelation. See Richard L. Johannesen, Ethics In Human Communication (4th ed., 1996).

Note: Asa Jew of German origin, Buber condemned Nazi atrocities (the problem) while attempting to understand those who knew of the atrocities and did not resist and those who were "uninformed", e.g. did not investigate rumors (the people). Martin Buber, Pointing The Way (1957).

Others, sharing the dialogical ethical perspective described by Buber, concur.

The other persons are valued for his or her worth and integrity as a human. A partner in dialogue is affirmed as a person, not merely tolerated, even though we oppose her or him on some specific matter. Others are confirmed in their right to their individuality, to their personal views. Confirmation involves our desire to assist others to maximize their potential, to become what they can become. The spirit of mutual trust is promoted. We affirm others as unique persons without necessarily approving of their behavior or views.

Johannesen, *supra*.

Cultural Perspective

Once again, Buddhist practice offers "real-world" guidance and inspiration. The Dalai Lama, the living Tibetan Buddhist master and leader, describes consciously practicing, or visualizing, loving-kindness and compassion toward those who have hurt him and his community, as part of his daily meditation practice. Even after a lifetime, he describes the practice as difficult.

Here's an example of the Buddhist practice.

Phrases of Lovingkindness

In doing metta practice, we gently repeat phrases that are meaningful in terms of what we wish, first for ourselves and then for others. We begin by befriending ourselves. The aspirations we articulate should be deeply felt... Classically, there are four phrases used.

"May I be free from danger."
"May I have mental happiness."

“May I have physical happiness.”

“May I have ease of well-being.”

... Discover personally in your own heartfelt investigation what is truly significant for you...

There is a nightmarish quality to life without safety. When we live repeatedly lost in conditioned states such as anger and greed, continually being hurt and hurting others --- there is no peace or safety. When we are awakened at night by anxiety, guilt and agitation --- there is no peace or safety. When we live in a world of overt violence, which rests on the disempowerment of people and the loneliness of unspoken and silenced abuse --- there is no peace or safety...

Sharon Salzberg, Loving Kindness: The Revolutionary Art of Happiness (1995.)

Conflict Theory

In addition to authenticity, or congruence between words and actions, Carl Rogers found unconditional regard and empathy as instrumental to human growth and healing. *See, e.g.* Carl Rogers, On Becoming A Person (1967). Empathy is recognition: “(assuming) the internal frame of reference of the client and attempt(ing) to perceive the world and the client through the client’s own eyes.” Johannesen, *supra*.

In mediation and other conflict processes, unconditional regard can be equated with the trained capacity of suspending judgment.

One encourages the other to communicate. One allows free expression, seeks understanding and avoids value judgments that stifle. One shows desire and capacity to listen without anticipating, interfering.... warping meanings into preconceived interpretations. Assumptions and prejudices are minimized. *Id.*

Fourth Stage

You meet the terminating supervisor (hereinafter “supervisor.”) He appears to be a nice man.

“Did I do anything with this termination --- the first in a long line of managers to “have the guts” to do so. I intend to stand by my actions.”

Word has gone out through the organizational grapevine about a possible mediation. Many are angry. They see negotiating with this employee as a sign of weakness: something he does not deserve. If you can’t stand strong with firing long-term troublemakers, you might as well give up confronting employee problems.

When you mention employees’ fear of violence, the supervisor informs you that his wife, a police officer, shares these concerns, believing violence is likely. An employee assistance psychologist introduced the real risk of violence to management after interviewing the employee months ago.

APPLICATION

- **How do you respond?**
- **Consider the theory and practice presented earlier in this and other case studies, and list your options:**

Fifth Stage

You meet with the supervisor's supervisor (hereinafter "supersupervisor") to explore perceptions and possibilities. He is strained in mediation and has participated in several. When you first met him, he appeared quite enthusiastic about mediation. At this meeting, the supersupervisor is friendly as he welcomes you into his office.

Here repeat some of the personality and performance problems you have heard and read. When you mention mediating, he becomes visibly upset. The supersupervisor opposes any discussions and negotiations with the employee. When you mention the risk of violence if the conflict continues to escalate, he replies "Let him shoot me first."

APPLICATION

- **Can you suspend judgment there? What concerns and questions arise?**
- **How can you honor your concerns while suspending judgment? Or, in other words, what might "separating people from problems" look like in practice here?**
- **Does it make any difference to learn that the supersupervisor is an engineer?**
- **Discuss.**

Conflict Process

Concerned paraphrasing at "the level of emotions" equates with empathetic listening.

Reflective Listening: Level of Emotions

**"You feel (feeling word)"
"You seem (feeling word)"
"Seems like you feel (feeling word)?"
"That sounds (feeling or empathetic word)"**

APPLICATION

- **How might you respond to the supersupervisor's last statement to seek greater understanding? Paraphrase at the level of emotions or listen empathetically?**

Sixth Stage

You meet with contact #1. You inform him that all concerned and requested participants, including management, legal representatives for the organization, union representatives, employees requested by the employee, the employee and his attorney, are all interested in exploring the possibility of mediation. He yells "I cannot believe you would allow this employee to influence the process."

APPLICATION

- **How do you respond? What are your options? Concerns? Questions?**
- **Possible research: the role of union representatives with employee grievances**
- **Analyze the above list in terms of alliances. For example, who would you include as an advocate for the employee? Describe your rationale. Do the same with the organization.**
- **Review the case study facts, identify all conflicts described and list the necessary and involved parties for each conflict. Is there a basic, underlying conflict there, or several, overlapping and related conflicts?**

Seventh Stage

You meet with all concerned parties, including the employee's civil rights attorney. At one point in the process, the attorney (male) stands up over you and makes a derogatory comment about women (that appear to have nothing to do with the meeting.) Fortunately, you (female) are 6' 1."

APPLICATION

- **List non-verbal ways of communicating judgment and disrespect**
- **How can you respect yourself and assert strong boundaries with problem behavior, while also suspending judgment and respecting others?**
- **Optional: Interview seasoned mediators regarding the above interaction, and ask them to describe empowered options for response.**

Eighth Stage

The meeting to assess appropriateness of mediation continues. One of the employees present, another engineer, is quiet. Later you talk privately to this employee and learn that he feels very anxious with open, personal talk of conflict.

- **How do you respond? What concerns arise?**

Ninth Stage

After you meet with all parties, one of the organizational representatives informs you that his supervisor and division head have approached him regarding his involvement with the case. One questioned his participation and said "get rid of it." Their public "shouting match" shocked everyone who heard it.

APPLICATION/REVIEW

- **Identify case study examples of destructive individual and group behaviors and dynamics.**
- **Cognitive distortion, such as blaming, dichotomous (simplistic right/wrong) thinking...**
- **Projection**

- **In/outgroup practice**
- **Denial**
- **Self-Fulfilling Prophecy**
- **Discuss.**

Conflict Theory

A dynamic related to the above, particularly projection, is scapegoating. A group or individual is habitually and irrationally blamed; at its most horrific, vilified as “evil.” Dehumanization and resultant prejudice rationalize and encourage attack.

Recently, scapegoating is being examined in relation to school tragedies in the United States. A pattern is emerging where victims of relentless and cruel taunting and bullying are using guns in schools. *See, e.g.* Darryl E. Owens, “*Taunting could inflame a child’s short fuse*”, The Times, Mar. 14, 2001, at F4.

Cultural Perspective

“All my life I have lived in a small community united only by its insensitivity for another people.”
Anonymous student.

Questions

- **Does your response to the above exercise regarding destructive practices change if you learn that this employer did not actively and constructively supervise problem performance prior to termination? Specifically, it did not reinforce positive efforts, regular feedback and suggestions regarding performance, or establish and review performance improvement plans. Discuss.**
- **Would it make any difference if:**
 - **the terminated employee is a minority, i.e., member of a group underrepresented in the American workplace? Discuss.**
 - **the employee had been admired and respected for job performance until recently?**
- **Review the case study, identify information gaps, and create some questions to guide your information-gathering.**

Case Variation

The employee mentioned that “someone might get hurt if his grievances aren’t resolved to his satisfaction” during conversations with the mediator. During the first meeting of all concerned, the employee becomes very upset at one point, raises his voice and stands up over the others present.

Ethical Exploration

- **Identify ethical concerns and questions that arise with the case variation.**
- **Are the parties fearful of personal attack seriously disadvantaged? What if they are in real danger? Possible research: mediation's appropriateness/inappropriateness and a mediator's ethical obligations, assuming real threat and danger.**

Case Study Postscript : The organizational representative, mentioned in stage nine above, took the risk of violence seriously and had some private concerns about the employee's well-being. Despite pressure not to do so, he continued negotiations, believing a good faith effort was his ethical responsibility --- to his organization, colleagues and the terminated employee. He successfully negotiated a settlement after carefully researching retirement and severance options for long-term employees.

Proposed Third Party Conflict Intervenor Competencies

Information Gathering Skills and Knowledge

Gathers requisite background information to adequately diagnose and structure (if possible) appropriateness of proceeding with mediation, e.g. history of violence involving participants, party capacity (CCMMO), necessary parties; if necessary, consults with expert resources;

Relationship Skills and Knowledge

Demonstrates:

- 2) clear, consistent and responsive communication of interest, respect, open receptivity and support toward each party, particularly when discloses and struggles with disclosing ideas, feelings and reactions and takes other personal risks

and

no personal: judgment
rejection (including "cold silence;" non-response)
ridicule
disrespect
discounting,
particularly in response to openness;
- 3) empathy, i.e., recognizes and validates party feelings;

ROLE-PLAY SIMULATION

Cast of Characters

1. Employee
2. Contact #1 (Human Resources)
3. Frightened Union Representatives
4. Supervisor
5. Super Supervisor
6. Organizational Representative

