Mediation, a non-adversarial, semi-structured, creative process in which one or more impartial individuals help disputants (Fritz, 2004), is tied to many disciplines and is available in many different kinds of settings. The mediator can be, for example, a labor negotiations specialist, a clinical sociologist working in a court, an elder in a tribe, a diplomat, a minister or a divorce lawyer and can work, for instance, with families, workplaces, communities and/or countries. As mediators can have very different areas of practice and different disciplinary backgrounds, it should be no surprise to find that they also have different theoretical views. Some of the theoretical approaches have developed as a result of the emphasis in mediation training while others come from disciplinary education, worksites, values, affiliations or are the result of a combination of influences. Sometimes the model and theoretical views of a mediator – like politics, religion or national identity – may be more “the hand that was dealt” rather than something that was chosen. For instance, a consulting group offers mediation training in a country that has no tradition of formal mediation and the mediators trained in the host country think that the consulting group’s approach to mediation is the only approach or the best approach. Another example might be a case in which an employee of an organization or a volunteer is trained as a mediator but only is shown one approach to mediation. In these cases, it would be very difficult for the new mediator to evaluate this approach. This article identifies some of the major approaches used by professional mediators in the United States. It also identifies the theoretical underpinnings of those approaches and provides a rationale for understanding the approaches and theories.

**Mediation Models**

Theories, implicitly or explicitly, are a basis for the models that are used by practitioners. The models explain how practitioners should function. According to Lang and Taylor (2000:101):

> Models represent appropriate, aspirational, or best practices; they include guidelines for implementing them. Most novice mediators learn a particular model and approach to mediation that encompasses guidelines, rules, procedures, and ways of understanding mediation practice…

Stage models are frequently used by mediators particularly for organizational and community disputes. One such model, according to Jennifer Beer (1997), author of *The Mediator’s Handbook*, has seven stages: opening statement; uninterrupted time for each person to speak; exchange (arguing and discussion); setting the agenda (for discussion/resolution); building the agreement; writing the agreement and closing. Beer notes that separate meetings (small caucuses of some participants and/or the mediator and one or more participants) can be held at any time during the mediation. Another model, developed by Jacqueline Morineau (1998:83-88) and popular in Italy, has three stages: theory, crisis and catharsis. Lascoux (2001:161-67) discusses a six-stage model with the first stage (creation de contexte) being “la plus delicate et la plus longue.” And Haynes (1994) describes a five-stage family mediation model in which the mediator continues to cycle through the stages as often as necessary. During the first stage of this model the mediator gathers, verifies and shares the data.

It should be noted that the stages in stage models are frequently not distinct and that stages will differ depending on factors such as culture, mediator or party preference, type of mediation and...
complexity of case. Some models may be ones in which no or few stages are specified or expected while other models have many stages. A complicated environmental dispute in a community, for instance, might begin with a period in which possible participants are identified and discuss the likelihood that all will participate in some kind of conflict analysis gathering. This group might then hold a series of facilitated sessions in which procedures are developed and approved that would be used in a mediation. All this preliminary work would take place before an actual mediation. Christopher Moore (2003:67-69), in his 12-stage model of mediation, devotes the first five stages to the period before the formal mediation actually takes place.

It is beyond the scope of this paper to identify most of the models used by mediators. It would be a useful exercise to do so, however, and particularly to examine the models in terms of cultural differences. Even if there was one model that could be used in all or most situations, it should be expected that there will be differences in the length of time devoted to certain stages given the differences in culture (within as well as between groups) and there may be differences in the stages in terms of order as well as importance. There also could be differences in the way a stage is defined, introduced or developed. There also will be differences in the way mediators and organizations that hire mediators rely on the models. The models each provide a general flow for cases but there will be a range in their use – from those who rigidly follow a prescribed model to those who would not think of doing so.

Mediation Approaches and Theories

Individual mediators as well as mediation programs (whether independent or housed in organizations) all have their own approaches to the art of mediation. Sometimes there is a very good fit (e.g., an independent mediator in private practice has independent clients who are very satisfied with the approach used by the mediator) but sometimes there is a rather poor fit. For example, a company may insist that its own mediator, as an employee of the company, only use the one approach to mediation that has been approved by the company while the mediator thinks the approach needs to be modified for different situations (e.g., two colleagues who are old friends are involved in a work dispute; an employee has been fired; the company wants a written agreement but those involved in a dispute do not; and a judge has sent a court case involving back to the company for mediation).

There are different approaches to mediation and there are important differences in the context and conditions in which mediations take place (e.g., respect for elders acting as mediators in a tribal mediation; mediation when an authoritarian ideology is involved with strong views on politics, democratic processes, religion, age or gender; the maximum time allotted for mediation is very short; the job security of the mediator is in question; one or more parties may feel forced to take part in the mediation).

The following list of approaches to mediation in the United States – including the identification of theoretical underpinnings – is intended to serve as a starting point for the discussion of mediation approaches. It is assumed that mediation is relatively voluntary (e.g., even if managers are required to take part in mediation … they can decide whether they wish to settle a matter) and conducted under rather democratic circumstances (e.g., constraints of the program should still allow a range of issues to be discussed and resolved).

Participant-Centered. This approach generally uses a stage model and focuses on what the parties would like to achieve through the mediation process. This may mean, for instance, that the parties want to understand each other better and/or want to reduce or resolve the issue or issues that brought them to mediation. The mediator generally acts as a facilitator. The approach is connected

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1 A full discussion of the theories can be found in “Approaching Conflict: Theory and Mediation in the United States” (Fritz, 2004).
to humanism and, at times, may be connected to psychotherapy or sociotherapy. The latter is true particularly with therapeutic models of family mediation (Taylor, 2002:120).

Solution-Oriented. This approach uses a stage model and the mediator may be (basically or solely) facilitative or directive. The mediator may take part in the problem solving and, if directive, even “push” toward a solution. The solution has the agreement of the parties, but the mediator may have had a strong hand in reaching the solution. The solution-oriented approach is strongly connected to utilitarianism, behaviorism, social exchange and rational choice but also to structural-functionalism, a systems approach in which conflict may be viewed as a disruption.

Transformative. This approach focuses on changing participants by encouraging empowerment and recognition. The dispute (and its resolution) is less important than parties changing their attitudes. The parties have the responsibility for outcomes and the mediator is a facilitator who has faith in the parties to develop their mediation process. This approach can be characterized as humanistic, focused on improving communication and change-oriented. Della Noce, Bush and Folger (2002:50) have indicated that this approach is related to a social/communicative view of human conflict in the discipline of communicative science. If an organization insists that a transformative approach be used in mediations, the approach may also be connected to structural functionalism.

Narrative. The mediator works with the parties to develop a story about their conflict. The story is then taken apart and replaced with a new co-constructed story. The three phases of this type of mediation are (1) involving the participants, (2) telling and “deconstructing” the conflict-laden story, and (3) creating a new story that changes or reduces the conflict. The narrative approach is connected to humanism and particularly to post-modern thought in which there is no objective reality but multiple realities.

Humanist Integrated Process (HIP). The HIP mediation framework emphasizes humanism, cultural competency, empowerment, respect and creativity. The mediator is reflective and is expected to continually assess the interaction between/among the parties and among the parties and the mediator. The HIP mediator is participant centered but flexible. Depending on the circumstances of the mediation, the mediator may integrate aspects of any of the other mediation approaches listed here. This approach is similar to what Vraneski (2004) has identified as an interactive approach except HIP has an explicit connection to humanism.

The HIP approach is frequently based on a particular view of humanist theory. This humanism, focusing on free and responsible individual choices, is neither anthropocentric (human centered) or biocentered (moral consideration given to all living things). This form of humanism includes respectful consideration of the natural environment and fits very well with Aldo Leopold’s (1949) land ethic theory. Leopold (1949:204) indicated that “a land ethic changes the role of Homo sapiens from conqueror of the land-community to plain member and citizen of it.”

Attention is given to the context or structure in which the parties’ actions have been taken. If the parties are interested, there may be discussion of actions that can be initiated - by the represented individuals, departments, organizations and/or communities – to prevent, reduce and/or resolve certain conflicts. This fits well with what has been called social mediation.2

The HIP tradition, like several of the other approaches, is based on humanism. Humanism is mentioned in the title of this approach so that humanism is neither diminished nor overlooked. The

According to Sweden’s Erik Wennerstrom (2000:18), “social mediation is a way of solving conflicts at an early stage, perhaps before they reach the level of overt conflict… France (has)… made us all rethink the different levels and stages of intervention, by launching the concept of social mediation. It covers a series of events starting at root causes, through conflict reduction to conflict management, which in fact is something more comprehensive than the concepts of mediation and prevention mostly being used today.”

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Mediators using the HIP approach also may have strong connections to multicultural/liberationist theory and they can have something in common with certain practices of sociotherapists.

Conclusion

Disputants sometimes are very surprised at the outcome of a mediation and, if they like the outcome, have even gone so far as to describe the process as “magic.” The magic involves a number of elements including the approach to the process. The mediation field, at this point, is only beginning to identify and distinguish among its basic approaches. And while there has been some discussion of models, there has been little discussion of the relationships among theories and models. Does it make a difference whether we know which models and approaches are being used and which theory or theories are basic to the models? I think so.

Some mediators and some organizations that employ mediators have little understanding of the variety of theories or the differences in application in various settings. This may be the result of one or more situations. For instance, mediators trained in only one approach may not be exposed to an overview of the field. Also, some mediation organizations may think it is in their business interest to “sell” only the approach of their agency and minimize other approaches. And organizations that employ mediators may insist on a narrow approach because they don’t want to worry about mediators “deviating” from a set approach. While “keeping it simple” may make teaching, learning and practice less confusing in some ways, it does not encourage mediators and organizations to grow and change by incorporating new ideas and refining programs. A restricted training or practice may mean that mediators are less apt to approach something creatively taking into account the unique circumstances of each mediation.

The more mediators understand the models and theories in our field, the better they will be able to explain and assess what they do. Identification and discussion of the similarities/differences and the strengths/weaknesses (in various settings) of the models, approaches and theories, will foster necessary improvements to mediation teaching, research and practice. It also will help disputants and organizations that hire mediators or run mediation programs to make informed choices about mediation possibilities.

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3 Multicultural/liberationist social theory (e.g., African American, Latino/Latina, feminist standpoint, Native American, queer theory) rejects theories that support those in power. The multicultural/liberationist theorists are inclusive, want to make systems more diverse and open, and try to shake up the social and intellectual world. Theory is offered on behalf of those without power. According to Harding (2004:3), “race, ethnicity-based, anti-imperial and queer social justice movements routinely produce standpoint theories.” A standpoint theory views social reality from a socioeconomic position from which action can be taken.
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