

# Methods of Third-Party Intervention

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# 1. Introduction

Third-party intervention in situations of human conflict has a long history and a wide variety of forms and functions. Disputants in most, if not all, societies and at all levels of social interaction have had access to external actors to whom they can turn when they find they are unable to manage their differences by themselves. A common response to perceived incompatibilities in goals, methods or values between contesting parties is to enter into negotiation in order to reach a mutually acceptable agreement. Negotiation appears to be a universal, human phenomenon, although it is of course expressed in variations that are appropriate to each cultural context. Mediation, which is intended to facilitate the negotiation process, also needs to be practised within the norms and assumptions of any given cultural or subcultural milieu. At the same time, Western theorists of negotiation and mediation have attempted to spell out generic models, which they hope will serve to capture many of the essential elements. Much further cross-cultural research will be necessary to tell us if this is indeed the case.

Theorists have also identified additional forms of third-party intervention designed to complement negotiation that are distinguished primarily by the *degree of power* that the intervener exercises over the process and outcome of the conflict. This continuum of power is characterised not only by a varying capacity to influence, but also by a noteworthy shift in the *type of power* exercised. Thus, more traditional, coercive methods such as arbitration engage influence and control as “power over”, while more recent innovative methods such as problem-solving workshops (PSWs) seek to engage and induce “power with”, to draw on a useful distinction identified by Mary Parker Follett (1924/1942) and evident in feminist literature (Taylor/Miller 1994).

A contemporary notion in the third-party literature is the idea that not all conflicts at all points in time will be amenable to a single and unified method of intervention. The defining characteristics of the conflict, particularly the stage of escalation, need to be considered in the light of the question as to which type of third party might intervene in the conflict most effectively and in which manner. Likewise, the interplay between different *forms* of third-party intervention and conflict transformation must be considered carefully, particularly because the various forms will typically play different roles in the overall process. Conflict transformation further requires that the antagonists agree upon and create the political, economic and social structures that will engender positive peace with social justice over the longer term. It is clear that these kinds of outcomes require more complex and coordinated third-party activities than the field of conflict resolution has been able to develop and implement so far, along with, of course, local empowerment and engagement.

This chapter will focus first on the *method* of mediation, acknowledging its role as one of the most commonly applied and studied forms of intervention in conflicts. This will set the larger stage for a consideration of the various *forms* and *functions* of third-party intervention, some of which draw their appeal from their supplementary nature to mediation and negotiation.

A rudimentary model for matching types of interventions to the *stage* of conflict escalation will be presented as an initial heuristic for realising the potential complementarity of different forms of intervention. Finally, a number of *issues* will be identified that can affect the overall current and future usefulness of third-party intervention in addressing the multitude of destructive conflicts that regularly beset humankind.

## 2. Mediation

### 2.1 Definition and Expression

There are numerous definitions of mediation, but all rely on a core of common characteristics: mediation is the intervention of a skilled and impartial intermediary working to facilitate a mutually acceptable negotiated settlement on the issues that are the substance of the dispute between the parties. Mediation is a pacific, non-coercive and non-binding approach to conflict management that is entered into freely by the concerned parties, who at the same time maintain control over the substance of the agreement. Thus, mediation is primarily a task-orientated method directed toward solving a shared problem of the parties; it is not directly concerned with the nature of the relationship between the parties. Mediation can be directed toward disputes between two parties in its bilateral form, but can also involve multiple parties when it is called upon to assist in complex multilateral negotiations.

As social conflict is an omnipresent facet of the human experience, it is hardly surprising that mediation finds expression at all levels of social functioning and in apparently all societies, past and present. According to a comprehensive yet concise treatment of the history of mediation by Christopher Moore (2003), this form of third-party intervention has been employed in almost all cultures in all regions of the world and in all phases of recorded history. Religious leaders, community elders, and, at times, special intermediaries have all played the role of mediator in their various efforts to deal with potentially destructive disputes in their respective collectivities. The current practice of mediation in secular, western societies has seen the role proliferate to address all manner of disputes at the interpersonal level, from divorce and custody issues between separating spouses, to workplace grievances and complaints, to fights on school playgrounds, to landlord-tenant problems, to consumer complaints, and to corporate battles between executives.

At the intergroup level, union-management mediation has a long institutional history, while third-party intervention at the community level in racial and neighbourhood disputes is, on the other hand, a more recent phenomenon. Intervention into multi-party environmental, regulatory and public policy disputes is also a growing area of practice and theory. Alternative Dispute Resolution (ADR) works alongside the courts to apply mediation to criminal and legal issues

through programmes such as victim-offender reconciliation. The thrust of all of these initiatives is to replace or augment traditional and usually authoritarian or adversarial methods of conflict management with approaches that instead require some form of joint problem-solving on the part of the antagonists.

The rapid proliferation of mediation methods at the domestic level in the United States and some other countries since the 1960s has produced a growing body of literature that seeks to understand the process and its various applications. As Baruch Bush and Joseph Folger point out in their revised work on the transformative potential of the method, mediation continues to be generally understood as “an informal process in which a neutral third party with no power to impose a resolution helps the disputing parties try to reach a mutually acceptable settlement” (Bush/Folger 2005, 8). Their analysis identifies four competing “stories” or accounts of mediation, each emphasising different dimensions of the process and its outcomes.

The “satisfaction story” argues that mediation facilitates collaborative problem-solving, as opposed to distributive bargaining, and thereby produces integrative solutions that can satisfy the needs of all parties. The “social justice story” proposes that mediation helps to organise people with common interests into stronger communities that are less dependent on outside actors to solve their problems and thus less vulnerable to exploitation. The “oppression story” presents a radically different picture, contending that mediation has become an instrument for the powerful to take advantage of the weak in society. Finally, the “transformation story” proposes that the power of mediation is to be found in its ability to transform the quality of the conflict interaction, thus strengthening the character and capacity of the disputants and of the wider society in which they live.

While none of these four stories can be regarded as definitively true, Bush and Folger contend that the satisfaction story is the most accurate: the dominant form of practice in mediation does indeed revolve around the solving of problems and the gaining of settlements, as opposed to oppression, empowerment or transformation of individuals. At the same time, Bush and Folger place a greater emphasis on transformative mediation, pointing to its significant potential for engendering the personal development of disputants toward both greater strength and greater compassion. Consequently, mediation offers the capacity for both empowerment (the restoration of an individual’s own sense of value and capacity) and recognition (the individual’s acknowledgement and empathy for the other party’s problems). Individual changes of this nature are seen as an expression of a new moral and social vision, in which society comes to value relations between people rather than individual satisfaction. At the same time, the social justice story also has parallels to conflict transformation in terms of creating structures involving greater equity.

Mediation in international relations also has a long history and, parallel to the development of the nation-state system, has been employed increasingly. Diplomatic practitioners have come to consider mediation as part of their stock-in-trade, and some of the early works on the practice are powerful testimonials to their personal experience and wisdom (e.g. Jackson 1952). In this sphere, international mediation is often performed by a formal representative of a state, regional organisation or the United Nations, with the latter two coming to predominate in the second half

of the twentieth century. At the same time, informal interventions by esteemed persons and religious intermediaries have come to be of increasing importance in international mediation. The current work of former US President Jimmy Carter and the quiet unofficial diplomacy of the Quakers serve as illustrations.

The practice of international mediation in the political sphere is increasingly complemented by the intermediary activities of numerous actors at the mid- and grass-roots levels in societies experiencing violent conflict. While their efforts are less well documented, it is clear that mid-level officials, personnel of non-governmental organisations, and military officers on peacekeeping missions, among others, take part in a wide variety of intermediary activities. As they work in war zones or in areas undergoing reconstruction or other forms of societal transformation, these individuals make use of their organisational roles in order to bring about cooperation and problem-solving between representatives of antagonistic factions who continue to regard one another as the enemy.

In addition to negotiating the many arrangements necessary to achieve mission or organisational objectives, these practitioners often find that they must mediate among various parties in order to meet their mandate, whether that be maintaining a ceasefire, providing humanitarian assistance to displaced persons, or dispensing health care to vulnerable populations. Current manifestations of ethnopolitical conflict and the international community's response to these have thus raised further challenges for the theory and practice of mediation as a form of third-party intervention.

## 2.2

### Identity and Motives

Third parties need to think carefully about who they are and precisely which attributes and interests they bring to the triadic bargaining situation. Mediators are distinguished by not having the same identity as either of the parties, nor do they have any direct interest in the dispute. This is not to say that mediators are disinterested, or that they have no tangible interests to be served by entering the domain of the conflict. States, for example, often enter into mediation of conflicts in order to advance their own security or economic interests, to maintain or increase their sphere of influence or to help keep an alliance together. As Christopher Mitchell (1988) points out, the motives for mediation are quite diverse and thus cannot be taken for granted. Motivations operate at both the individual (e.g. altruism, ego-enhancement, material gain) and the institutional level (e.g. the role of the UN, the prestige of a state). In all cases, the mediator receives some benefit from his or her assumption of the role, either through the process (e.g. improved status) or in the outcomes (e.g. advancement of security interests).

Consideration of the full range of social situations that lend themselves to mediation will readily show that the identity of the mediator can vary considerably in relation to both the parties and the context. Christopher Moore (2003) provides a useful taxonomy of this variety by identifying three types of mediators. *Social network mediators* are linked to the disputants

by means of a continuous web of connections, which usually means that they will have some form of obligation to foster and maintain harmonious relationships. Examples include community elders, religious figures, business colleagues, and personal friends. The *authoritative mediator* has a formal relationship with the parties and also some degree of power over them, but does not make use of this to determine the outcome. Examples here include corporate managers, organisational supervisors, agency officials, and representatives of powerful states in the international community. *Independent mediators* can be found within those traditions of professional service that are designed to provide objective consultation to disputing parties, such as labour-management mediators, family mediators, and third parties in complex environmental disputes. While all of these mediators require some of the same core attributes and competencies, they also need expertise in their particular domain of operation.

With regard to the specific motives of the parties entering mediation, the common hope is that they do so simply because they wish to resolve the conflict and have become frustrated if not stalemated in their own unilateral and bilateral attempts. In general, it is assumed that parties enter mediation because they expect to achieve a better outcome by doing so. Unfortunately, observers cannot always assume such constructive motives, as parties commonly enter into mediation for a number of other reasons. Frequently, it may prove difficult to refuse the invitation of a powerful mediator; such a rejection could reflect badly on credibility or image. Parties may also enter into mediation in order to stall for time while they develop new capacities to pursue alternative strategies, to legitimate their own position, to save face, or they may simply try to (mis)use mediation as a means to advance their own unilateral interests, with no intention of compromise or joint problem-solving. Such *devious objectives* can be broadly defined as “any involvement in a mediation or peace-making process on the part of a disputant that is not committed to a compromise” (Richmond 1998, 709). Thus, one of the first and continuing tasks of a mediator is to accurately assess the motives of the parties as well as the authenticity of their desire to reach a mutually acceptable settlement [see also Hans J. Giessmann and Oliver Wils in this volume.]

### 2.3 Qualities and Competencies

One essential quality closely linked to identity is that of *mediator impartiality*; this attribute finds its expression in the attitudes and behaviours exhibited by the mediator toward the parties in the mediation process. Some amount of impartiality is expected of any mediator: in the sense that he or she may not favour one party over the other and must be neutral about the outcomes that they may jointly create. The identity of the mediator should serve to engender trust on the part of the parties; indeed, in many cases, the mediating third party is often the only initial repository of trust between antagonists who harbour only suspicion for one another. It is therefore clear that *mediator credibility* (the extent to which the parties believe the mediator’s statements and ability to deliver the promised agreement) is a critical element in the mediation process (Maoz/Terris 2006).

Third parties also require the requisite knowledge and skill to properly fulfill their role. In the case of mediation, this means a thorough understanding of the parties, the substantive issues that divide them, the negotiation process itself, and the wider system in which it is embedded. Consequently, the competency for mediation depends first of all on a demonstrated capacity to facilitate the negotiation process. The list of specific behavioural skills or tactics that this requires is extensive and usually not a matter of consensual agreement (Wall 1981; Wall et al. 2001). Suggestions range from empathetic listening to the manipulation of information, the ability to quickly draft text, and, last but not least, a sense of humour.

An attempt has been made by Christopher Honeyman (1993) and his colleagues at the domestic level in the United States to gain a synthesised set of mediator competencies applicable to the areas of labour-management, community, commercial and family mediation. This ambitious project identifies the primary tasks of the mediator (e.g. to enable communication, to analyse information, to facilitate agreement), each with its own set of sub-tasks, as well as the skills required to perform these tasks (e.g. reasoning, nonverbal communication, recognising values). The model then develops performance evaluation criteria with rating scales to judge mediator competency (e.g. empathy, skill in generating options, success in managing the interaction). A more recent job analysis relevant to mediators working in community, family and parent-child disputes yields an extensive and comprehensive list of knowledge areas and skills required for effective practice (Hermann et al. 2001). Overall, it can be said that western approaches to mediation tend to emphasise communication skills and the demonstrated capacity to facilitate joint problem-solving between the parties.

Another popular typology of mediator functions or roles, proposed by Saadia Touval and William Zartman (1985) at the international level, divides mediator behaviour into the categories of communication (e.g. transmitting concessions), formulation (e.g. redefining issues), and manipulation (e.g. legitimising a party's demands). While communication and formulation are consistent with a traditional, impartial and basically altruistic approach to mediation, evidence of manipulation can raise questions about mediator bias and power. By and large, the mediator will require all the requisite skills to help move the parties through the negotiation process, from initial contact and pre-negotiation to defining issues and identifying interests to generating alternatives to exchanging preferences and concessions to integrating alternatives to persuading parties toward an agreement, and finally to working out the details of implementation.

## 2.4

### Assessing Effectiveness

At the international level, mediation has been part of the practice of diplomacy for centuries, although its effectiveness has only recently become the object of scientific study. In the domestic arena, traditional forms of mediation have existed for a long time, but most research attention has been directed to newer forms of mediation that have developed alongside existing legal practices for settling disputes. There has been a concerted effort to assess these alternative

forms of dispute resolution, and especially their claim to have certain superior qualities as compared to established court procedures.

At the domestic level, primarily in the United States, a wide variety of indicators have been employed in order to evaluate the effectiveness of mediation in a range of situations, from victim-offender reconciliation, to divorce mediation, to small claims courts, to neighbourhood disputes, to landlord-tenant conflict, and to environmental and public policy controversies. Kenneth Kressel and Dean Pruitt (1989) provide a comprehensive list of the types of indicators that have been used to evaluate the success of mediation. In terms of outcomes, *rates of settlement* are an obvious indicator, while *rates of compliance* with agreements and *disputant satisfaction* with the settlement are also important considerations. In addition, the nature of the agreement is always of interest, as mediation often claims to produce a greater degree of compromise and equal sharing of resources than adjudicated procedures. Efficiency is also a consideration, in that mediation works faster and at less cost than litigation. In a more recent comprehensive review, Wall et al. (2001) provide an extensive list of mediation outcomes for disputants, including the usual measures of agreement, satisfaction and efficiency, but also some related outcomes such as improved relationships, empowerment, procedural and restorative justice, and improved problem-solving.

At the international level, studies of effectiveness have generally been restricted to an examination of the substantive nature of the outcome, including measures such as ceasefire, partial settlement, full settlement or no agreement (e.g. Bercovitch/Gartner 2006). In contrast, a somewhat more extensive assessment of outcomes is provided by Jonathan Wilkenfeld and his colleagues in their recent study of mediation efforts in international crises, in which the dependent variables included the form of the outcome (agreement versus no agreement), the content of the outcome (compromise versus stalemate), the escalation or reduction of tension, and the parties' satisfaction with the outcome (Wilkenfeld et al. 2003). Studies of international mediation tend to be more restricted in their capacity to assess outcomes, relying largely on second hand reports of mediation efforts, whereas assessments of domestic mediation typically have direct access to the parties involved and can include measures of satisfaction, perceived fairness, and so on. Nonetheless, it is to be hoped that empirical work on international mediation will look for ways to extend evaluations of effectiveness beyond simple measures of substantive outcomes to criteria related to the interactions and relationships among the parties.

# 3. Forms and Functions of Third-Party Intervention

## 3.1

### A Taxonomy of Methods

Mediation may be the most common form of third-party intervention, but in theory and practice it is usually augmented by a number of other methods. Numerous terms abound in the third-party literature: conciliation, fact-finding, good offices, peer mediation, arbitration, facilitation, adjudication, mediation-arbitration, policy dialogue and consensus-building. Some of these roles involve interveners in their official capacity, while others are performed in a more informal manner. Some interventions operate at the highest levels of decision-making (macro), while others depend on influence given at the middle (meso) ranges of society. Yet others typically work at the community or grass-roots (micro) level.

Loraleigh Keashly and myself surveyed the third-party literature some years ago, and in that process developed an initial taxonomy of the primary methods of intervention (Fisher/Keashly 1990). Our goal was to bring some clarity to the confused state in which the same term had been used to mean very different things, while different terms were employed to describe the same activity. We also sought to react to the blurring of the lines in the literature between traditional mediation and the newer forms of third-party intervention, i.e. consultation, which focused more on the subjective elements of conflict (misperceptions, basic needs) and on the quality of the relationship between the antagonists. Our concern was that a lack of distinction could easily result in a devaluing of the appropriateness and utility of methods such as dialogue facilitation and PSWs, which attempt to build understanding and trust, rather than the hammering out of agreements. Unfortunately, this blurring continues in some treatments of mediation that attempt to characterise consultation as a form of mediation, and then criticise it as being prescriptive and having a lack of power to induce and coerce settlements.

Work on the taxonomy produced a six-fold typology of pacific interventions, geared mainly to the international level, but appropriate at other levels as well:

1. *Conciliation*, in which a trusted third party provides an informal communicative link between the antagonists for the purposes of identifying the issues, lowering tension and encouraging direct interaction, usually in the form of negotiation.
2. *Consultation*, in which the third party works to facilitate creative problem-solving through communication and analysis, making use of human relations skills and social-scientific understanding of conflict etiology and dynamics.
3. *Pure Mediation*, in which the third party works to facilitate a negotiated settlement on substantive issues through the use of reasoning, persuasion, effective control of information, and the suggestion of alternatives.

4. *Power Mediation*, which encompasses pure mediation but also moves beyond it to include the use of leverage or coercion on the part of the mediator in the form of promised rewards or threatened punishments, and may also involve the third party as monitor and guarantor of the agreement.
5. *Arbitration*, in which the third party renders a binding judgment arrived at through consideration of the individual merits of the opposing positions and then imposes a settlement that is deemed to be fair and just.
6. *Peacekeeping*, in which the third party provides military personnel in order to monitor a ceasefire or an agreement between antagonists, and may also engage in humanitarian activities designed to restore normalcy in concert with civilian personnel, who may also assist in the management of political decision-making processes such as elections.

In this taxonomy, consultation engages a skilled professional who operates in an unofficial capacity to analyse, prevent and resolve conflicts. The utility of consultation, with its focus on the proper diagnosis of and improvement in relationships, lies in the very useful complementary role that it can play to mediation, especially in the pre-negotiation stage. Here misunderstandings are cleared up, emotional issues are separated from substantive ones, and a sense of working trust is built, which the parties can then take into negotiations.

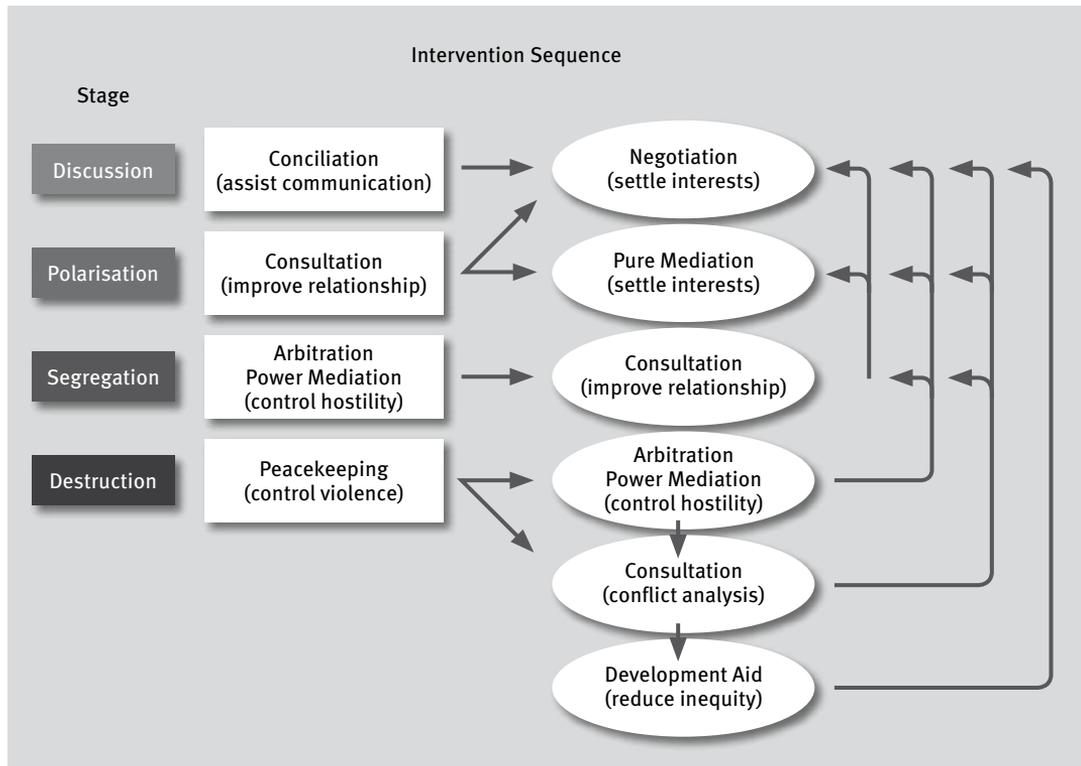
### 3.2

#### A Contingency Approach to Intervention

The realisation that third-party methods can be employed in different combinations or sequences led Loreleigh Keashly and myself to think further about how they might best be matched to key aspects of the particular conflict situation. We started with the recognition that conflicts are inherently a mixture of objective interests (e.g. competition over scarce resources such as territory) and subjective elements (such as perceptions, attitudes, valuing of goals). As conflicts escalate or become more intense, the subjective aspects usually come to play an increasing role; eventually, individuals or groups engaged in truly destructive conflict will genuinely come to see two different realities and hold extreme negative images of one another, while at the same time unquestionably maintaining a positive self-image.

These factors typically make the management of tangible interests much more difficult for third parties such as mediators, and obstruct their attempts to move the parties toward settlement. To help, we developed a *contingency model* of third-party intervention, drawing on the earlier work of others in the field, particularly that of Friedrich Glasl (1982) and Hugo Prein (1984) at the organisational level. Our model matches the lead or initial third-party intervention to the stage of conflict escalation, i.e. to the particular mix of objective and subjective factors (Fisher/Keashly 1991). We surmised that lead interventions would achieve initial effects, and could then be followed by further interventions designed to de-escalate the conflict to the point at which the parties could manage it themselves (see *Figure 1*).

Figure 1 “Contingency Model”



Source: adapted with revisions from Ronald J. Fisher 1990. *The Social Psychology of Intergroup and International Conflict Resolution*. New York: Springer-Verlag Publishers. With kind permission of Springer Science+Business Media.

We first developed a stage model of conflict escalation that captures many of the objective and subjective elements that prove to be important as the conflict intensifies, as the parties apply more powerful and contentious measures and as the difference between winning and losing becomes greater. Building on the work of other theoreticians, we put forward a four-stage model of escalation (discussion, polarisation, segregation, destruction) and we then matched a lead intervention to each stage:

In *discussion*, the parties usually maintain a respectful relationship with one another and are jointly concerned with achieving joint gain on objective interests. They are also hesitant to move into negotiations, however, so the third-party intervention of *conciliation* is appropriate. This type of intervention can deal effectively with minor perceptual and emotional issues, and move the parties into negotiations to manage their differences.

In *polarisation*, when the relationship is beginning to deteriorate and negative perceptions (stereotypes) and emotions (hostility) emerge, *consultation* is seen as the lead intervention. If this kind of intervention manages to help clear up the misperceptions and misunderstandings, and to defuse the emerging emotional negativity, the parties can then be encouraged to enter into pure mediation in order to reach an agreement.

In *segregation*, subjective elements predominate, with high levels of mistrust and disrespect, limited direct communication, the use of threats, and increased use of “good versus evil” images. At this stage, the model proposes that stronger medicine in the form of *arbitration* (if available) or *power mediation* may be required to control the hostility of the parties and reduce the negative effects that it is having on the relationship. It is clear, however, that the imposition of a temporary settlement or ceasefire at this stage of the proceeding does little more than provide the opportunity to then begin serious work on the relationship, using *consultation*. If improvements do indeed ensue, the parties may again be encouraged to employ *pure mediation* in order to broaden and finish the settlement process.

In *destruction*, the parties in conflict see each other as “subhuman” and regard the situation in which they find themselves as hopeless, to the point that they are willing to settle for losing less than the other if they cannot win. At this stage, parties often see their very survival at stake, whether that means job loss, physical abuse to the point of murder, or even the attempted annihilation of an identity group as in genocide. Our model now prescribes some form of *peacekeeping* to control the violence, and to provide an opportunity for other methods to work. Again, some form of *arbitration* or *power mediation* may be useful for the initial control of hostility and aggression. But this will not suffice for resolution: now a deeper form of *consultation* in the form of intense and prolonged conflict analysis may be necessary to induce the parties back down the escalation staircase, now littered with resentments and residues over past actions. This is where consultation must encourage reconciliation, and help the parties to gain a shared picture of how they arrived at such a point of intractability.

What the contingency model proposes are methods to increase the level and to expand the types of power available to the third-party interveners, in parallel to the parties’ actions to escalate influence (Fisher/Keashly 1990). Stronger investments, commitments and tactics by the parties to the conflict may in turn require stronger and broader forms of influence by third-party interveners, in order to induce the parties to fundamentally reconsider their approach to the conflict.

Different forms of interventions find their legitimacy in different types of power, and need to be evaluated in terms of both their effectiveness and their ethical acceptability. Conciliation, consultation, and pure mediation tend to exert lower levels of control over both process and outcome, and also to rely more on referent (professional) and expert (knowledge) power that is shared (“power with”). Arbitration, power mediation and peacekeeping are characterised by a higher level of control over both process and outcome, and inject more legitimate (role), reward and coercive power into the situation (“power over”). Thus, the mixing and sequencing of these various methods raises a range of ethical and moral implications that call for careful and continuous review.

The contingency model and similar approaches are now acknowledged as having validity and utility in the field of conflict resolution, although there have been criticisms and extensions of it (see Fisher 2007). Most evidence is drawn from single case analyses involving a limited number of interventions, typically consultation and mediation. A more extensive comparative case analysis of five instances, where consultation appears to have made important contributions to peace processes, largely by serving a pre-negotiation function, is provided in my own

follow-up work (Fisher 2007). The five cases include conflicts in different regions of the world at different points in time over the last 45 years. The five interventions using PSWs generally followed the contingency model, occurring at a high level of escalation and after the imposition of peacekeeping or a period of stalemate and failed or non-existent mediation. The analysis of transfer effects from the unofficial interventions to official interactions indicated that each of the consultation interventions made useful contributions to the de-escalation and/or resolution of the conflict. However, only two cases showed clear and complete support for the sequencing of interventions in the model, thus demonstrating the complexity of dealing with turbulent international conflicts and the lack of coordination among third-party interveners.

The contingency model challenges third parties to always consider carefully the approach they are proposing to implement, and to carry out a detailed analysis of the conflict before assuming that their method is the most appropriate and useful at that point in time. The intention here is not to rule out simultaneous applications of different methods, which can play a useful ongoing role (for example, that of parallel consultation during mediation). Rather, it is to encourage more traditional interveners to examine whether their methods are indeed adequate to meet the specific demands that subjectivity and complexity bring to escalated and destructive conflicts, regardless of the level of interaction. A lead analysis using a consultative approach may often be the best way to start such a series of interventions. Case experience indicates that parties are often willing to enter into informal, low risk, non-committal discussions before they are prepared to negotiate or to accept mediation.

## 4. Issues in Third-Party Intervention

Intervention in other people's conflicts is fraught with a variety of political and pragmatic issues. What follows will illustrate several questions and problems that can arise in the context of conflict intervention by external actors. Of these, the first three issues are seen as more political in nature, as they relate to the relations between the parties and between them and the third party, with a specific concern regarding the use and abuse of power. The last four issues are more pragmatic; these have to do with the strategies, outcomes and professional ethics of intervention.

### 4.1 Culture

The third party frequently comes from a different (and often dominant) culture from that of the parties, who are often themselves from different cultures (often a mix of dominant and oppressed). Culture is a pervasive force in human affairs, with a sometimes profoundly misunderstood or underestimated power to affect behaviour. As each culture has its own assumptions, beliefs, norms, practices and institutions that seem appropriate to life in general,

each also has a similar set of fundamentals that are seen as relevant to conflict. As Mark Ross (1993) and others have pointed out, the way in which conflict is defined, perceived, responded to, and managed is culturally embedded; that is, there is a “culture of conflict” in each society. Therefore, it should come as no surprise that cultural norms vary not only about the desirability of mediation as a method of conflict intervention, but also about the nature of how mediation should be carried out (Wall et al. 2001). In addition, when cultural assumptions about conflict differ between antagonistic groups, these differences can become another source of conflict etiology or escalation for the mediator to deal with.

The question is therefore how third parties are to gain cross-cultural sensitivity. How can they come to know their own culture, to understand and respect the cultures they enter, as well as to accurately perceive the effects of cultural differences between the parties, and between themselves and each party? The latter is particularly important when the third party comes from a dominant culture and the parties from less dominant or even oppressed cultures. The current power imbalances in the world determine that many current interveners will come from the dominant, affluent western culture (“the North”), while many interventions occur in non-western environments (“the South”). As a result, interveners must be extremely careful about transporting their own cultural models of conflict intervention to other places and other peoples.

While the effect of culture and cultural differences on negotiation styles and processes has received considerable attention, the role and significance of culture in mediation is a nascent focus. Raymond Cohen has broken new ground with his conceptualisation of the culturally sensitive mediator, embodying the qualities and skills to bridge the cultural gap between adversaries from different identity groups. The culturally sensitive mediator serves three essential cross-cultural roles (Cohen 1996, 111-112):

“... the interpreter, decoding and explaining the parties’ culturally encoded messages and enabling them to communicate intelligibly; the buffer, helping to protect high face-salient disputants from painful and unwelcome confrontation; and the coordinator, synchronising the discordant negotiating conventions of the rivals and enabling coordinated solutions to emerge at each of the various stages of the talks.”

In a similar vein, the empirical study of the effects of culture on mediation is almost nonexistent. An exception is provided by Jacob Bercovitch and Ole Elgstrom (2001), who challenge the traditional realist assumption that culture is largely irrelevant in international relations. Using five indicators of cultural differences (e.g. religion, political rights, civil liberties), these scholars analysed a large number of cases of international mediation and found that increasing cultural differences reduced the likelihood of successful mediation in terms of achieving a ceasefire, settlement or abatement of the conflict.

In the North American domestic context, the work of Michelle LeBaron and her colleagues has made the point that in applying the standard mediation models and practices, interveners must understand the role of culture in conflict resolution and must test their practice for cross-cultural applicability. LeBaron (2003) introduces the concept of “cultural fluency” to denote an internalised familiarity with the workings of culture and its ways of interacting with the world. To enter into a domain of cultural conflict, third parties not only need to possess cultural

fluency, but need to operationalise it through a number of principles of practice, such as partnering collaboratively, reflectively observing and evaluating interaction processes, and assessing their role in relational dynamics. Above all, third parties should remember with humility that they will never comprehensively understand a different cultural group or individuals from it.

Congruent with this line of thinking, Kevin Avruch and Peter Black (1993) have proposed that the first step in a successful third-party intervention should be a cultural analysis of the conflict, one which goes beyond one's own cultural identity, seeking instead to ascertain the particular cultural dimensions of the conflict and to assess their relevance to its expression and resolution. Adding cultural analysis to the usual historical, political, strategic and social analyses that third parties traditionally carry out promises to provide a richer, firmer and more respectful base from which to work.

In contrast to the cultural issue, the literature on third-party intervention is largely silent on the question of gender differences, which can be seen partly as a cultural issue involving exclusion. Although women as third parties are to be found in the practice and the scholarship of mediation at the domestic level, international conflict resolution at the elite level demonstrates almost total exclusion. According to Sanam Anderlini (2007), this absence of women as peacemakers is due in part to sexism, but also to systemic flaws in the structure and process of peace negotiations that are designed to end wars between countries, predominantly led by men, rather than to resolve conflicts between societies. It is to be hoped that the increasing engagement of civil society in peace processes, coupled with the strong participation of women as leaders of non-governmental organisations, will help to counter this exclusion. As part of the necessary response, Antonia Potter (2008) points out that issues in peace processes can be treated in a gender-sensitive manner by mediators, and describes a number of functions that currently excluded women could provide to enhance the process and the outcomes of mediation. In the longer term, both cultural and political changes are necessary to establish gender equality.

## 4.2

### Power Asymmetries

In all third-party interventions, sensitivity to power dynamics is critical to understanding and effectiveness. The question is how power imbalances between the parties, and between the third party and one or more of the parties affect both process and outcomes.

Usually some degree of power balance is necessary before third-party interventions can operate effectively (Fisher 1972). Each party must be in a position to seriously confront the other, either in the present or in the future, so that constructive interaction can ensue. Sadly, however, dominant groups or individuals are not noted for their capacity to cede power without challenge; they are better known for abusing power in the absence of institutional controls. At the international level, where such controls are woefully absent, the consensus is that asymmetric conflicts are more resistant to mediation efforts than those where a power balance exists (Quinn et al. 2006).

Outside parties often play a useful role in advocating for weaker parties, and third parties also serve a preventive function by facilitating dialogue, and building understanding, trust and respect, so that conflict expression at the point of confrontation takes less violent forms. Without some degree of power parity, however, the intervention process can easily become a sham, in which the stronger party influences the interaction for its own benefit, while the fundamental issues remain unaddressed. Within some range, third parties can work to balance situational power, and indeed will often support weaker parties through activities like training and advice, thus enabling them to be more effective players. In short, however, even in facilitative processes, as pointed out by Nadim Rouhana and Susan Korper (1996), interveners need to be cognisant of how power asymmetries can affect the goals of the intervention and the focus of conflict analysis on which action implications are based. They contend that since third-party interveners typically come from higher power groups, they are not well equipped to develop new strategies for dealing with asymmetrical conflict. To overcome this problem, they propose that interveners need to be very clear on their approach, work with participants to elicitively and cooperatively develop goals and activities, and provide for serious evaluation and reassessment of their interventions. However, the problem is not a simple one as power asymmetry is comprised of differences on multiple attributes related to the many elements and forms of power (Mitchell 1995). Third parties need to be sensitive to these multiple expressions of power, which create a much more fluid situation than one in which the stronger party simply dominates through coercion.

Asymmetrical conflicts pose a significant challenge to mediation in identity-based conflicts in which the stronger party pursues unilateral actions while the weaker one is willing to endure tremendous costs (Aggestam 2002). With respect to consultation, the effectiveness of the problem-solving workshop has also been questioned. Although PSWs can affect individual changes in participants that can influence both public opinion and policy decisions, the method assumes rough equality in engagement and transfer, such that both parties are motivated to resolve the conflict and to deal with the tough issues of equity and justice (Fisher 2010). Accordingly, the design of workshops accords equality of status and voice to the two or more sides, and works to create a shared analysis of the conflict and mutually acceptable options to move toward resolution. In providing the elements of procedural justice, the PSW can actually become a vehicle for empowering the weaker party. However, in the process of transferring insights and options back to the conflict, the forces of power asymmetry in the form of unilateral coercive strategies can render any effects impotent.

A further question arises in this context about the coercive use of rewards and punishments, as used for example in power mediation. In some cases of protracted and escalated conflict, power mediation may well have a useful role to play in bringing about an initial settlement in the face of continuing hostility. It remains true, however, that the use of reward and coercive power fundamentally contradicts the values of autonomy and free choice that should govern the field of conflict resolution and transformation. Thus, powerful individuals or institutions with access to resources of value to the conflicting parties must be sensitive to their pervasive effects. When combined with a lack of cultural sensitivity, the higher power of the intervener can easily lead to the importation of dominant methods or directed solutions. As Vivienne Jabri (1995)

maintains, third parties of either a directive or facilitative bent should strive to understand their interventions as actions situated within the structures of existing social systems, with the potential to contribute either to their maintenance or to their transformation.

### 4.3 Third-Party Bias

The received view on third-party bias is that the third party should be impartial, without favouring one party over the other, neutral, and not determining outcomes one way or the other. Impartiality is seen as one of the main requirements of acceptability by the parties, and as a prerequisite to establishing a relationship of trust. It serves as the basis for effectively carrying out the role of intervener. An impartial mediator is more effective in eliciting information and is more likely to have their suggestions accepted by the parties due to perceived fairness, and will therefore engender more successful outcomes (Carnevale/Arad 1996).

However, the question has been raised whether mediators who are biased towards one party or the other can also play a useful role in conflict management. Saadia Touval and William Zartman (1989) argue, for example, that the motives of the mediator in international conflict are best described in the context of power politics, and that mediators almost always have their own interests, so that they are very seldom truly indifferent to the issues and terms being negotiated. From the parties' perspective, impartiality of the mediator may be less important than the achievement of a favourable outcome and the importance of a continuing relationship with a powerful mediator. The more distant party may accept a biased mediator precisely because they believe the third party will have greater influence over the preferred party in terms of moving them toward settlement (*ibid.*). In addition, it is possible that in conveying certain types of information, such as the strength of the resolve of the other party, a biased mediator may be perceived as more credible (Kydd 2003). If biased mediators with political agendas and tangible interests in the dispute can be effective, the range of mediation possibilities is broadened. However, this approach compromises the voluntary, non-coercive nature of mediation, which is compatible with the value base of the conflict resolution and transformation field.

Drawing on case material from African civil wars, Laurie Nathan (1999) proposes that partisan mediators, who typically are also powerful mediators, have been largely unsuccessful in brokering agreements between conflicting parties. In contrast, impartial mediators who operate in a fair and even-handed fashion are more acceptable to the parties and more effective. These mediators also tend to be sensitive to the psycho-political dynamics of the conflict, and are able to facilitate dialogue and build confidence toward problem-solving negotiations.

### 4.4 Timing and Ripeness in Mediation

In terms of timing, it appears that intervention in bilateral or multilateral disputes is likely to occur only after some period of development and escalation has elapsed. Sadly, mediation

efforts are typically initiated only after the parties' attempts have failed and coercion or violence has already taken place, thus presenting the mediator with a situation in which significant costs have been incurred, and positions and attitudes have become hardened.

When might the most propitious moment(s) of intervention be? Consideration of this has led to the concept of "ripeness", which refers both to a condition of the conflict and to the right time for intervention. William Zartman (1985) has posited the concepts of a "ripe moment" and a "mutually hurting stalemate", referring primarily to international conflict. From a realist perspective, Zartman argued that parties are likely to consider outside intervention only after they have exhausted themselves to the point of a costly deadlock from which they see no exit. In addition, if the parties perceive that their situation will only get worse, especially if they experience a recently avoided or an impending catastrophe, then they will be receptive to intervention. A mutual sense of futility in dealing with the conflict must be combined with a belief that a conciliatory move will be reciprocated by the other party. The parties must come to believe that negotiation, often assisted by mediation, can provide a way out of the conflict through a cooperative solution. In a confirmation and extension of ripeness theory, Zartman (2000) affirms the basic propositions and extends the theory to the continuation of negotiations through the concept of a "mutually enticing opportunity". He also notes, as have others, that the increased pain of a mutually hurting stalemate can lead to increased resistance to negotiations and further escalation of the conflict. There have been a number of attempts to reformulate and augment ripeness theory, the most promising of which appears to be "readiness theory" as proposed by Dean Pruitt (2005), which broadens the motivational base of ripeness beyond cost-benefit analysis and adds the concept of optimism to help explain the decisions by conflict parties to move into bilateral or mediated negotiations. It is also likely, as proposed by the late Jeffrey Rubin (1991), that there are many ripe moments in the life of a destructive conflict, and that, rather than waiting for a mutually hurting stalemate to occur, third parties should look for ways to help create ripeness. This position is compatible with interactive conflict resolution and the contingency model, both of which maintain that any form of facilitated intervention is almost always more useful than inactivity.

#### 4.5

#### Coordination of Interventions

As the number and variety of third parties has grown beyond traditional diplomatic and legal actors, the issue of coordination among multiple interventions has become a focus of concern. At the international level, representatives of states and intergovernmental organisations are now joined by a diverse collection of private individuals, religious institutions and nongovernmental organisations with conflict resolution, humanitarian or development capacities (Chigas 2007; Crocker et al. 1999). The question is how multiple interveners can work to enhance effectiveness and efficiency, rather than diminishing both by getting in each others' way, sending mixed messages, setting different expectations for the parties, and competing for forum time, resources or recognition (Crocker et al. 1999). The hope is that effective coordination can result in

different third parties making complementary contributions to the conflict resolution effort, either in a simultaneous or sequential manner.

Leading work on the question of coordination was initiated by Susan Allen Nan in her comparative case study of conflict resolution efforts by multiple unofficial actors in three protracted conflicts in former Soviet republics. She defines coordination as “the variety of ways conflict resolvers consciously attempt to make their own individual efforts more effective together as interconnected pieces of a larger peace process” (1999, 3). The inductive analysis identified four types of coordination: information sharing, resource sharing, collaborative strategising and collaboration through partnerships. All types of coordination increased complementarity between efforts, but this was particularly true of strategising and partnering.

Of particular importance with regard to third-party intervention is the potential for coordination between official mediators and unofficial actors, such as third-party consultants, as implicitly called for by the contingency model. A specific and common focus in this regard is how consultation in the form of PSWs can make useful contributions to the initiation and process of official negotiations. Building on a comparative case analysis of successful pre-negotiation effects of unofficial interventions (Fisher 2005), I interviewed the consultants in four of the cases to see what patterns in coordination emerged between Track I and Track II (Fisher 2006). The clearest finding was that coordination was severely limited, and was typically initiated by the unofficial third parties rather than the diplomats or others engaged as mediators. In addition, coordination was typically limited to information sharing and indirect sequencing of efforts (by the unofficial actors). In only one case was there joint strategy planning and collaboration in implementation. Nonetheless, all of the unofficial interveners maintained that coordination increased both the complementarity and effectiveness of their interventions. The field of conflict resolution has historically noted the lack of receptivity toward its newer alternative methods by the diplomatic community and other official actors, although there is some evidence that this resistance is beginning to recede, at least in the US government (Chataway 1998). It is to be hoped that mutual acceptance between Track I and Track II will continue to grow, and that instances of coordination and complementarity in third-party intervention will become more common, as they are now becoming in the wider domain of peacebuilding.

#### 4.6

### Effectiveness of Third-Party Intervention

Although third parties can play useful roles in a wide range of conflicts, it is clear that they are not always successful in doing so. While the question of effectiveness is complex, attempts to evaluate third-party activities have been made in most sectors and with most forms of intervention. As noted above, these evaluations use a variety of indicators according to the differing objectives of the various forms of intervention (see *section 2.4*). For example, third-party consultation is not designed to produce agreements on substantive issues, whereas mediation is, and should rightly be assessed on that basis. In contrast, most forms of mediation are not designed to transform the relationship between the parties, whereas consultation is.

Thus, it is essential to identify the dependent variables that are the expected outcomes of a specific form of intervention, and to tailor the evaluation of effectiveness to these.

Most forms of mediation in domestic settings, at least in North America, enjoy reasonable rates of success (for more details, see Kressell 2006). Efficiency is a more difficult outcome to assess, due in part to the complexity of making cost comparisons. Nonetheless, the overall sense is that mediation works, and that it is usually well-received and cost-effective in comparison with adversarial alternatives, such as litigation in the court system. At the international level, however, studies of mediation effectiveness in achieving settlements over the past forty years show far more mixed results, also varying with the measure of success used and the cases of intervention studied. More recent and comprehensive studies generally show higher success rates in the 1945 to 2000 period, with one study demonstrating that 45% of outcomes involved partial or full settlement (Bercovitch/Gartner 2006). Sadly, mediation success in protracted civil wars of an ethnopolitical nature is generally low. Here, there appears to be a level of intractability associated with identity conflicts that have escalated to widespread violence, which is particularly resistant to intervention efforts. A recent analysis of close to a thousand mediation attempts in 36 cases of civil war found settlement rates in the 15 to 30% range, but also concluded that early mediation has a better chance of success (Bercovitch/Derouen 2005). This is in contrast to the hypotheses of the mutually hurting stalemate, which may have more validity in relation to interstate disputes than to intrastate conflicts, especially those of an identity-based and secessionist nature.

The practice of third-party consultation is much less developed and less frequently employed than mediation in intercommunal or international disputes. Nonetheless, my review of three decades of unofficial third-party interventions, such as PSWs and similar interventions, yielded generally positive results, at least according to the case analyses of the interveners (Fisher 1997). In addition to ongoing case studies of consultation interventions (e.g. Saunders 2000), a recent comparative case analysis of nine intervention programmes documents the various ways that transfer effects from interactive conflict resolution can make positive contributions to peace negotiations and outcomes (Fisher 2005). The results affirmed that a range of useful transfer effects occurred, from new realisations and more realistic attitudes to substantive products such as frameworks or statements of principles, and to direct personal connections in which workshop participants subsequently moved into policy-making or negotiation roles. The challenge remains to convince decision-makers and policy-makers that unofficial conflict resolution efforts have an important, and increasingly documented, contribution to make in complementing official peace processes.

#### 4.7 The Ethics of Intervention

The question of the ethics of intervention at the individual and institutional levels is both a political and a practical matter. At its root, it involves the way in which moral and ethical principles are translated into guidelines for practice and from there into assurances to be provided to those affected by one's work. Ethics is not simply a matter of dos and don'ts; it is

impossible to formulate simple prescriptions which will govern all situations. Rather, it is best understood as an ingrained part of the *identity* of individuals and organisations. Those who presume to intervene in the lives of others, especially in critical situations of conflict, need to consider very consciously the moral and ethical consequences of their actions. As with the law, ignorance is no excuse.

It is essential that conflict intervention, especially at the level of collectivities, be seen as a form of *professional practice*, with the usual requirements placed upon those who set out to provide service to the public (Fisher 1997). These include sufficient knowledge to allow for an understanding of the phenomena encountered (destructive social conflict) as well as of the practice undertaken (mediation, consultation, etc.), a genuine dedication to human welfare, a commitment to continuously improve understanding and competence, and a sense of integrity and standards for ethical conduct that will govern interactions with those who are served. Conflict interveners who operate in an informal and unofficial manner, be it at the grass-roots level or at the highest political level, must feel compelled to take these considerations as seriously as the international diplomat who mediates interstate disputes does.

Most individuals working in conflict resolution as it is currently constituted in Western culture come from a professional base that is sensitive to ethical considerations, for example law, social work and psychology. Informal third parties in communal settings are also usually aware of the ethical principles that necessarily accompany their role, even if these are not systematically codified. Integrity does not require a professional stamp for its validity, and nor does ethical conduct require a formalised code. However, all who would intervene in the affairs of others should be prepared to reveal the base of their competence and should at all times operate with high regard for the welfare of their clients.

Authoritative third-party roles have often provided a base for unethical conduct that was in the service of the intervening institution rather than the individuals or groups receiving the intervention. It must be realised that parties in conflict are all too often in a vulnerable state when seeking outside assistance, and the classic dictum of “let the buyer beware” is not an adequate assurance. The minimal ethical principle of “do no harm” is also unfortunately an insufficient ethical foundation for practice in conflict intervention.

In terms of ethical functioning from a western, professional base, there are many sources to which conflict resolutionaries can turn for guidance. Almost all service professions, including that of consultation, have developed ethical codes to guide the practice of their members. While these are usually grounded on firm general principles of ethical conduct (e.g. honesty, fairness and respect in dealing with others), their application is usually geared to the specific situation, in which the application of general principles is tailored to the unique elements of a given ethical dilemma.

The field of conflict resolution in North America has shown interest in developing codes to cover its unique practice. For example, the US-based Society of Professionals in Dispute Resolution (now merged into the Association for Conflict Resolution) issued a statement of ethical standards that is relevant to neutral parties intervening in disputes. Some international non-governmental organisations involved in conflict transformation work have developed

principles and/or codes of conduct to govern their interventions in situations of conflict, which typically take place in the context of other societies and cultures. International Alert (1998), for example, has developed an extensive code of conduct that provides a set of basic ethical principles supplemented by guidelines specifically concerned with human rights, impartiality, and working in partnership with others. For Track I mediators, Hugo Slim (2006) offers a draft statement on ethical guidelines for mediators in armed conflict that includes many of the same values and qualities that are found in the domestic codes.

These welcome developments have stirred a valuable debate within the field as to the true nature of conflict resolution and transformation work, particularly as practiced from a dominant western and northern base. Many issues are relevant, especially revolving around the question of whose interests are being served by intervention, the need for cultural and gender sensitivity, standards of competency for the practice, as well as the needed expansion of culturally aware codes of conduct. These useful discussions, which have involved both interveners and recipients, can help the field of conflict resolution advance toward serving the needs of those whose lives have been ravaged by the scourge of destructive conflict. After all, conflict resolution in the short- and longer-term is about the work of conflict transformation, not only conflict management. All societies can benefit from theory and practice that enables groups who are different to live in peaceful partnerships characterised by harmony and equality.

## 5. Conclusion

Methods of third-party intervention have found strong expression in the field of conflict resolution, and yet there remains significant potential for improvement in both theory and practice. It is essential to better understand the different forms of intervention and their unique strengths in addressing destructive conflict, especially at the intergroup level. Only then will it be possible to make the application of particular interventions contingent upon certain characteristics of the conflict in question, with the possibility of increasing effectiveness by sequencing and combining interventions in a complementary fashion.

In doing so, it is necessary to evaluate the different methods in terms of whether each one is geared primarily to peacebuilding and conflict transformation or to peacemaking and conflict management. While it is indeed valuable to develop generic theory to support practice, it must also be realised that each domain of application (e.g. labour-management, commercial, international, victim-offender) will require its own theoretical base for understanding and practice and its own guidelines for ethical conduct. The bottom line must always be that effective third-party intervention seeks to be an important ingredient of social change aimed at achieving greater harmony and equity between individuals and groups, both within and between societies.

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