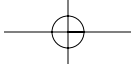


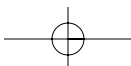
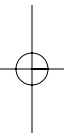
Part One

The Inner Frontiers

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Chapter One

The Dangers of Mediation

Only someone who is ready for everything, who doesn't exclude any experience, even the most incomprehensible, will live the relationship with another person as something alive and will himself sound the depths of his own being. For if we imagine this being of the individual as a larger or smaller room, it is obvious that most people come to know only one corner of their room, one spot near the window, one narrow strip on which they keep walking back and forth. In this way they have a certain security. And yet how much more human is the dangerous insecurity that drives those prisoners in [Edgar Allen] Poe's stories to feel out the shapes of their horrible dungeons and not be strangers to the unspeakable terror of their cells. We, however, are not prisoners.

RAINER MARIA RILKE

The words *mediating* and *dangerously* do not often appear together in the same sentence. The ostensible purpose of mediation is to ameliorate danger, pacify hurt feelings, and create safe spaces within which dialogue can replace debate, where interest-based negotiation can substitute for a struggle for power. We are aware that conflict is dangerous, but we expect mediation to be safe.

We can all recognize that in order to resolve our conflicts we have to move towards them, which is inherently dangerous because it can cause them to escalate. It is somewhat more difficult for us to grasp that our conflicts are laden with information that is essential for our growth, learning, intimacy, and change, that they

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present us with multiple openings for transformation and unique opportunities to let go of old patterns. Why should this make mediation dangerous?

The Danger of Mediation

Novelist Norman Mailer is said to have remarked that “there is nothing ‘safe’ about sex. There never has been and there never will be.” The same can be said about communication and change. Every honest communication poses a risk that we will hear something that could challenge or change us. All significant change, whether in how organizations are structured or who makes family decisions or how we live our lives, will be perceived as dangerous, because we do not and cannot fully understand where it will lead.

Even the most destructive patterns, dysfunctional ruts, and painful routines seem safer than doing something different that could result in change. Every pattern repeats itself, whereas change could result in things becoming worse. The known, even when it is painful, is measurable and reassuring. There is danger in the uncertainty of change.

Yet there is also danger in trying to hold on to things as they are. Everything is always in flux, and efforts to freeze the status quo or return to an earlier, imagined safety cannot succeed. Rather, these efforts succeed only in sparking an eternal conflict between those who strive to move forward into the danger of the new and those who try to stand still or steal backwards into the safety of the old.

The same tension occurs in every dispute. Most people prefer the conflicts they know to the resolutions they cannot completely imagine. Once they have learned how to accommodate a particular conflict, it becomes part of their routine, and they know what to expect. The script is invariant, calculable, and sure, even when it results in misery and pain.

Everyone intuitively understands that genuinely resolving conflict means getting to the bottom of what is not working. The role of the mediator is to locate the wellspring of the quarrel and dam the source that is feeding it. It does not fundamentally matter whether that system is emotional, intellectual, familial, relational, organizational, political, economic, or social. The closer we get to

the heart of *any* system, the greater the possibility that something fundamental could shift and therefore the greater the resistance.

Deeper still, every authentic communication demands openness, honesty, and vulnerability to others. Being vulnerable means risking pain and disillusionment, while anticipating the same honesty in return. The outcome of every open, honest encounter is therefore unpredictable and risky. It means facing parts of ourselves we would rather avoid. It means no longer demonizing our opponents as a way of asserting our own virtue but confronting our demons directly, as the only way of escaping them.

The greatest danger we face is our tendency to retreat from conflict, to accommodate and adapt to it. We quickly learn to expect nothing from our conflicts, to tolerate or anticipate them in our lives, to engage in them without self-reflection. This adaptation to conflict means abandoning all possibility of growth, awareness, learning, improved relationship, deeper intimacy, better results, and personal or organizational transformation, all of which are lost when we are unwilling to risk open communication.

The only way to escape the gravitational tug of a conflict to which we have grown accustomed, even addicted, is by honestly and energetically confronting the reasons we got into it, that kept us in it, that allowed us to accommodate and adapt to it. When we realize what we have gotten and lost by engaging in it, and what will happen if we remain trapped in it, we quickly discover which is the greater danger.

As mediators, we need to be willing to bring a deep, *dangerous* level of honesty and empathy to the dispute resolution process. Otherwise, we become characters in other people's scripts, rationalizing their torments, fears, and avoidance. As mediators, we need to avoid producing agreements that do not resolve conflicts, but merely suppress, silence, or settle them, that result not in growth, but in reluctant acquiescence and enduring discord.

To resolve any conflict, we need to trust that what will happen if we discuss it is better than what will happen if we do not. This inevitably means opening Pandora's box and not really knowing what will fly out. It is the depth and clarity of our own honesty and empathy, and our willingness to explore conflicts that are always just slightly out of control, that allows us to mediate dangerously.

Defining Conflict in New Ways

Most people think of conflicts as disagreements based on differences over what they think, feel, or want. Yet most arguments have little or nothing to do with the issues over which people battle. If we are going to support parties in using their conflicts as opportunities and guides to transformation, we need to deepen our understanding of the nature of conflict.

How we define conflict is critical to creating deeply honest and empathetic communications and achieving lasting resolutions. If our definition of conflict is superficial, we may resolve the wrong issues, communicate at an ineffective level, or address concerns that distract us from resolving core problems.

In every conflict, the parties appear to have nothing in common, yet they fit together like interlocking parts in a system. The masochist seems to have nothing in common with the sadist, or the optimist with the pessimist, yet they have their differences in common. There are no free-standing masochists, and if there is a single masochist in a crowd of a thousand people, he will find or create the sadist he needs in order to be whole. And he may have become so addicted or identified with his role that it will feel *dangerous* to discuss anything that might change it.

To better understand the rationale for a dangerous approach to mediation, consider the following alternative definitions of conflict. Each calls for a different set of strategies to probe the inner logic of the dispute, and a different set of questions to elicit honesty and empathy.

Alternative Definitions of Conflict

- *Conflict represents a lack of awareness of the imminence of death or sudden catastrophe.* As the parties become more aware of the finite quality of each others' lives, their conflicts become less important.
- *Conflict arises wherever there is a failure of connection, collaboration, or community, an inability to understand our essential interconnectedness and the universal beauty of the human spirit.* Everyone behaves in ugly ways when they are in conflict, hiding their essential beauty and interconnectedness. When they notice these qualities, their conflicts tend to diminish. When they act together, their conflicts become mere disagreements.

- *Conflict is a lack of acceptance of ourselves that we have projected onto others, a way of blaming others for what we perceive as failures in our own lives. It reveals a need to hide behind roles or masks that do not reflect our authentic feelings so we can divert attention from our mistakes. People escalate their conflicts by not being authentic. As they accept themselves more fully, they become more accepting of others.*

- *Conflict represents a boundary violation, a failure to value or recognize our own integrity or the personal space of others. As people recognize and respect each others' boundaries, they experience fewer conflicts.*

- *Conflict is a way of getting attention, acknowledgment, sympathy, or support by casting ourselves as the victim of some evil-doer. If the parties secure the attention, acknowledgment, sympathy, and support they need, they experience fewer conflicts as a result.*

- *Conflict represents a lack of skill or experience at being able to handle a certain kind of behavior. As the parties become more skillful in responding to difficult behaviors, they cease being drawn into conflict.*

- *Conflict is often simply the continued pursuit of our own false expectations, the desire to hold on to our unrealistic fantasies. When the parties give up their false expectations of each other, they surrender the conflicts they have created by trying to get the other side to become someone or something they never were.*

- *Conflict represents a lack of listening, a failure to appreciate the subtlety in what someone else is saying. As the parties listen closely to the metaphors and hidden meanings of their conflict, they discover its true content and feel less like counterattacking or defending themselves and more like responding constructively.*

- *Conflict is often a result of secrets, concealments, confusions, conflicting messages, cover-ups, and what we have failed to communicate. Conflict hides in the shadows. When one of the parties throws a light on it, it disappears.*

- *Conflict represents a lack of skill, effectiveness, or clarity in saying what we feel, think, or want. When the parties are able to tell each other clearly and skillfully what they need, they are often able to have their needs met without creating conflicts.*

- *Conflict is a way of opposing someone who represents a parent with whom we have not yet resolved our relationships. If the parties can recognize that the other person resembles or is behaving like*

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someone from their family of origin, they may see they are really angry with someone else.

- *Conflict is the sound made by the cracks in a system, the manifestation of contradictory forces coexisting in a single space.* Many interpersonal conflicts represent the points of weakness in an organizational or family system. When the parties address these weaknesses, the conflicts they create usually disappear.

- *Conflict is the voice of a new paradigm, a demand for change in a system that has outlived its usefulness.* The need for change always announces itself in the form of conflict, including increased interpersonal conflict. The introduction of needed changes often reduces the level of conflict in an organizational or family system.

- *Conflict represents an inability to grieve or say goodbye, a refusal to let go of something that is dead or dying.* Many divorcing couples and surviving relatives get into fights as a way of saying goodbye to each other, or as a way of mourning someone they loved.

- *Conflict is a way of being negatively intimate when positive intimacy becomes impossible.* Most parties prefer anger over indifference until they are really ready for the relationship to be over. This is because anger strips away their masks, permitting negative intimacy that results in boundary violation.

- *Conflict is the expression of one-half of a paradox, enigma, duality, polarity, or contradiction.* Many of the conflicts people experience are actually polarities in which each person plays the role of *yin* while the other plays *yang*.

- *Conflict is often a fearful interpretation of difference, diversity, and opposition, which ignores the essential role of polarity in creating unity, balance, and symbiosis.* As the parties learn to see their differences and disagreements as sources of potential unity or strength, their conflicts tend to disappear.

- *Conflict is a result of our inability to learn from our past mistakes, our failure to recognize them as opportunities for growth, learning, and improved understanding.* Conflicts are often simply requests for authenticity, emotional honesty, acknowledgment, intimacy, empathy, and communication from others—in other words, they flow from the desire for a better relationship.

What is common to all these definitions is that our conflicts begin and end with us, as well as with the systems in which we

operate. They have little to do with our opponents. As mediators, we can assist the parties in defining their conflict in alternative ways that allow them to perceive its deeper, more accurate meanings. We can define their conflict as a story, a culture, a set of bitter conversations or nasty words, or just feeling stuck. Through a dangerous process of definition, recognition, and acknowledgment, paths open to personal and organizational transformation. Each definition allows parties to redefine their conflict at a deeper level than would be possible, based on the surface issues over which they are arguing. To realize this in practice, we need to understand it in theory.

Searching for Relational Truth

If we focus for a moment not on the parties, but on ourselves as mediators, we can see that the roles we play in mediation are largely defined by our own attitudes, expectations, and styles. These roles, in turn, depend on a set of assumptions about human nature, the nature of conflict, and the nature of change that have reverberated throughout Western political and philosophical thought for centuries, resulting in radically different definitions of mediation.

These assumptions, in their starkest, most polarized form, separate the principle of *Logos*, representing science and reason, from the principle of *Eros*, representing art and pleasure. They contrast order with freedom, masculinity with femininity, work with play, discipline with enjoyment. They are reflected in the differences between Aristotle and Plato, Hobbes and Rousseau, Hamilton and Jefferson. They concern discipline versus permissiveness, hierarchy versus heterarchy, autocracy versus democracy. They separate those who believe people are bad and need controlling from those who believe people are good and need freeing.

There is, of course, a third approach that represents a combination of science and art and takes the form of ordered anarchy, disciplined permissiveness, and controlled freedom. This approach views yin and yang as parts of a whole that is greater than the sum of each. It seeks to promote the different interests of both in a victory that is without defeat. As Heraclitus wrote centuries ago: "Opposition brings together, and from discord comes perfect harmony."

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There are several consequences of this approach. First, it means mediators need to reconcile what appear to be opposite truths into a single framework. We need to accept the notion that there can be no fixed answers to emotional or artistic questions. This does not mean that there is no objective or scientific truth, or that one or another answer might work better in a given circumstance. It means that it is impossible to determine scientific truth in mediation, not only because there is always some indeterminate, emotional, or artistic truth, but because consensus precludes it. The word *consensus* trivializes what actually takes place, which is more a search for a third, higher, more profound, relational truth, than a compromise over facts. Isolated, adversarial, individual truths, in this sense, are less exact than relational truths. This allows us to walk with the person, but not with the literal truth of what they say. We communicate this to people through tone of voice, through intensity of attention, and by not deserting or silencing them. More deeply, as philosopher Martin Buber discovered: "I can only become I through my relationship with you, so truth is never just mine or yours, but ours."

A second consequence of this approach is that mediators must always be open to change, because answers always depend on a unique set of ever-changing conditions requiring continuous modification. Third, this combined approach means no truth, no story, no claim, can ever prevail over its opposite, except by disappearing altogether, or combining in some new synthesis. Good can never defeat evil, life can never conquer death, and the sacred and the profane are one.

In mediation, it means there are no victories without defeat. Mediators who assume one party is right and the other is wrong have ignored the fact that, in mediation, being right is a form of being wrong, just as being wrong is a form of being right. Mediators who want to reach a deeper level of truth have to begin by *dangerously* examining their own underlying assumptions about right and wrong, and see how these result in approaches to mediation that reinforce adversarial thinking. Philosopher Humberto Maturana wrote:

When one puts objectivity in parenthesis, all views, all verses in the multiverse are equally valid. Understanding this, you lose the passion for changing the other.

Alternative Definitions of the Role of Mediator

Each of these polarized philosophical systems corresponds to a different approach to mediation. Accordingly, if people are basically bad, mediators need to be forceful, evaluative, and directive. If people are good, mediators need to be facilitative, nondirective, and conciliatory. If people are basically good but behaving badly, mediators need to be elicitive and transformative. If people are both and neither, but just human, mediators need to be all of the above. We need to transcend notions of good and evil, allow for paradox, affirm the unity of opposites, and identify the real enemy as none other than ourselves.

The evaluative or directive model of mediation regards conflict as something to be ended, the parties as incapable of ending their conflicts by themselves, and the mediator as responsible for directing them toward a settlement that need not come to grips with the underlying, essentially unresolvable issues that gave rise to the conflict in the first place. This model is commonly used in litigation and by attorneys and judges.

The facilitative or conciliatory model of mediation views conflict as something to be overcome, and the parties as capable of doing so through active listening and describing their feelings. The mediator becomes a largely inactive supporter of the process, who empathetically models and facilitates their interactions. It is the parties' responsibility to reach settlements that may or may not address the underlying issues, depending on their interest in addressing them. This model is commonly used in community and public policy disputes, as well as by psychotherapists.

The transformational or elicitive model of mediation, as described by Bush and Folger in *The Promise of Mediation*, views conflict as something to be learned from, and the parties as ready for introspection and fundamental change. The mediator becomes an empathetic yet honest agent, whose role is to elicit recognition and empower the parties to solve their own problems.

In the transformational model, the mediator typically facilitates and does not suggest solutions or direct the parties toward resolution. Yet many parties require assistance in developing options, and no one trapped in a system willingly authorizes their own transformation. Personally, I use a modified version of the transformational model, based on a more intuitive, integrative,

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dangerous approach to mediation. I neither direct nor stand apart from the conflict, but interact with the parties and reflect on possibilities, based on intuitive assessments at the time.

There are occasions when the parties need honest feedback, external coaching, or recommendations for action, and are unable to move forward on their own. There are times for mediators to be silent, times to be elicitive, and times to be dangerous. While process as well as content decisions should be open to the parties, there is a danger of mediators abdicating to superficiality. Problems arise whenever tactics solidify into strategies. The real difficulty is knowing when, why, and how to use each approach.

In our experience, mediators need to elicit, conciliate, and facilitate, yet also to evaluate and direct parties in seeking resolution or transformation. They need to inquire about deeper underlying issues and relationships. With the tacit permission of the parties, mediators can recommend concrete steps that will break the participants' system. While directive and facilitative styles rarely result in transformation, transformational and *dangerous* styles easily produce settlements.

As mediators, we need to recognize that while people act in ways we call good or bad, these categories have no existence in nature. They are polarities, like up and down, hot and cold, forward and backward, that cannot exist or be thought of without their opposites. Human nature is not fixed or eternal, but changes with culture and conditions. No two parties are alike, no two conflicts are alike, no two mediators are alike, and no one is the same from one moment to the next. What succeeds for one mediator with one party at one moment may fail for another mediator with a different party or at a different moment. What is needed is not proscription, but skill, intuition, flexibility, and the ability to be dangerously honest and empathetic.

Mediation and Neutrality

In directive, facilitative, and transformational models, mediators are frequently described as "neutrals." There are several difficulties with this notion. In the first place, there is no such thing as genuine neutrality when it comes to conflict. Everyone has had conflict experiences that have shifted his or her perceptions,

attitudes, and expectations, and it is precisely these experiences that give us the ability to empathize with the experiences of others.

Nor are there any genuine neutrals in courts, workplaces, organizations, and government offices, including judges, CEOs, managers, and human resources representatives, all of whom have biases and points of view, including the bias of wanting to protect the organization from being disrupted by conflict. Judges have the most intractable bias of all: the bias of believing they are without bias.

Even outside observers cannot really be neutral. They inevitably become part of whatever they observe, trivially or fundamentally altering both themselves and what they are observing. When mediators “merely” listen, they may still have a profound, even a *directive* impact on the parties, the conflict, and themselves, ending all possibility of neutrality.

What is most useful to mediators in the concept of neutrality is not its emphasis on formality, perspective, objectivity, logic, or dispassionate judgment, but its concern for fairness and lack of selective bias. Parties most often want mediators to be honest, empathic, and “omnipartial,” meaning on both parties’ sides at the same time.

The language of neutrality creates an expectation that mediators will act fairly once they erase their own past experiences. But real fairness comes from using the past to gain an open, honest, humble perspective on the present. Worse, neutral language is bland, consistent, predictable, and homogenous; it is used to control what cannot be controlled. When confronted with something unique, or with paradox, contradiction, or enigma, a stance of neutrality makes us incapable even of observing without denying or destroying the very thing being observed, which is often a conflict that is riddled with paradoxes, contradictions, and enigmas.

The idea of neutrality originates in the law, as a result of a superficial similarity between the role of settlement judge and mediator, together with a lack of appreciation for the central differences between them. What is called neutrality or objectivity in the law exists neither in the solitary decision-making power on the part of the judge, nor in the partiality and subjectivity that flow from an adversarial, advocacy-based system.

In mediation, there is no judge, no power to decide in anyone other than the parties, no process other than consensus, and no

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victory other than a rough equality of loss. Both sides have the right to veto any outcome they perceive as unequal. For this reason, it is not neutrality that is important, but the ability to reach out, use subjectivity, and deepen empathy and honesty between adversaries.

Because conflicts produce distrust, polarization, and passion, people become caught up in their stories. They have no doubt that any fair person will side with them, and that once the mediator does so, it will be impossible to remain neutral. They sometimes see neutrality as a mask for partiality or indifference. Yet it is not actually neutrality they desire, but the *appearance* of neutrality, empathy, and the ability to find the inner connection between both sides' stories.

Because neutrality implies objectivity and distance from the source of the conflict, it cannot countenance empathy or give the mediator room to acknowledge or experience grief, compassion, love, anger, fear, or hope. Neutrality can paralyze emotional honesty, intimate communication, vulnerability, and self-criticism. It can undermine shared responsibility, prevention, creative problem solving, and organizational learning. It can ignore the larger systems in which conflict occurs. It can fail to comprehend spirit, forgiveness, transformation, or healing, which are essential in mediation. As a result, it can become a straitjacket and a check on our ability to unravel the sources of conflict.

It is dangerous to give up the protective cover of neutrality for something uncertain, emotional, unpredictable, and unsettled. Yet, as Ralph Waldo Emerson observed: "Everyone wants to be settled. But only insofar as they are unsettled is there any hope for them."