

# UC San Diego

## Conflict Case Studies

### Title

Case Study #5: Assessing Covert Bad Faith & Power Abuse

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**CIASWORKINGPAPER**  
**CoverSheet**

*Readers are encouraged to send comments and critiques directly to the author. Because of this text's deliberate "one-of-a-kind" format, detailed page-by-page comments and questions are welcome. This paper represents Case Study and Series #5, in a set of case studies for a future conflict resolution textbook. An "Introduction to Conflict Case Studies" is also available to guide use.*

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

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

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

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

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

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

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## “Introduction to Case Studies:” Excerpts

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

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

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

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

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

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

### WHAT TO DO WITH MISSING OR VAGUE INFORMATION

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

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

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

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

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

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

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

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

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

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

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

The text is written so that no particular background or training is required or has an advantage. This is important with multicultural dialogue, where members of various cultural groups may be

sensitive to others “speaking for them.” Others may simply stay quiet in the presence of authority. Still others might react with offense, angry accusation and heated debate. None of these responses promote the open, reflective and inclusive dialogue and learning desired here.

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

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

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

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

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

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

Business case analysis may draw on virtually the entire body of knowledge of behavior and social science and may make use of it in virtually limitless variety of ways. Originally, cases were just about anything... faculty could find to provide a basis for provocative discussion... (T) here reasoning process is more experiential and associative, involving pattern recognition and intuition, than it is logical reasoning, as in the teaching of law, or scientific reasoning.

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

### **SECTION III: ADDRESSING VIOLENCE**

#### **Case Study Topics (In Order Presented)**

##### **“Best Alternative to Negotiated Agreement”**

**Abuse of Power**

**Impartiality**

**Importance of Congruence: Empowered Leadership/Influence**

**Normalizing & Appreciating Potential Value of Anger & “Venting”**

**Reframing**

**Third Party Power & Influence**

**Benefits of Conflict**

**Good/Bad Faith**

**Catalyzing Change:**

**Astute Observation**

**Systems Assessment: Toxicity**

**Cultural Competence:**

**Ethical & Empowered Response --- Discrimination**

**Ethnocentrism**

**Neutrality**

**Good/Bad Faith**

## Party Capacity & Self-Determination:

Power Dynamics  
Language

Informed Consent

Mediation's Appropriateness

### Case Study #5: Assessing Covert Bad Faith & Power Abuse

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#### **Background**

Your conflict resolution practice focuses on communities. A recent arrival to town, you are seen as more neutral (e.g. unbiased) than long-time residents. The conflict professional who assists local government says "he won't touch racial disputes."

One of your friends introduces you to the head of the diversity council. He asks you to guide a community dialogue.

#### **Introduction**

Minority leadership and organizations complain that discrimination allocates more funds to long-standing majority non-profits; less, even no, funds to newer minority efforts. The most vocal leadership demands a community forum.

#### **Ethical Exploration**

- Can you describe a rationale for racism, sexism and other discrimination?
- Using the conflict resolution concept of BATNA, "best alternative to a negotiated agreement," may it disturb; hopefully enlighten. The "best alternative" is found through analyzing the benefits, costs and risks of many alternatives. Who benefits from racism? Sexism? Discrimination? How so?
- What do "majority" and "minority" mean? Simply greater numbers? Color? Gender?
- How do you suggest helping members of majority communities distinguish between real but denied "isms" and sincerely perceived and alleged discrimination that does not actually exist? Can we confidently judge and determine this distinction when by their nature racism and sexism appear to be denied more often than admitted to preserve status quo power dynamics and benefits? Do we risk providing further support and justification for denial of actual discrimination by including a discussion of how discrimination may be alleged inappropriately and, once again, "change the focus," and avoid the discomforts of discussing real discrimination? Is it fair to attempt a more "balanced" discussion of wrongs when the participants have not equally experienced the costs of discrimination?

Note: False allegations as improper power tactics will be explored in more detail in the next case study.

- Have you ever experienced "your eyes opening and seeing what you had not seen before?" How do you explain it? Your previous blindness? Your opening?

#### **Ethical Perspective**

Most of our institutions are committed to sustaining their identities, functions and power hierarchies in the face of pressure to change, even while they profess to be on the cutting edge of change.

Howard Gadlin, *Racial and Ethnic Conflict on Campus*, 33 *The Fourth R* (June/July 1991) at <http://www.mtds.wayne.edu/article/Gadlin.html>.

Third party impartiality is critical with alleged power abuse.

(G)overnments might try to abuse... dispute resolution procedures to convince people that their circumstances are acceptable and to prevent meaningful social change from occurring... Administrators are often far more focused on preserving the stability of their institutions than on the need for social change within them. Administrations want to keep the institutions' difficulties private even if public airing is needed to bring about meaningful systemic change... administration controlled (conflict) programs risk becoming a tool for the control of conflict rather than a meaningful way for the issues to be confronted by the community.

Colin Rule, *Collegiate Mediation Programs: A Critical Review*, (reprinted with permission from April/May 1994 issue (Vol. 50) of the *Fourth R*, the Newsletter of the National Association for Mediation in Education) <http://www.mtds.wayne.edu/article/Rule.html>, <http://www.mtds.wayne.edu/online.htm>.

➤ **Describe the impartiality needed here.**

### **Step 2**

You call to introduce yourself to minority leadership. Non return your calls.

### **Ethical Perspective**

Are you going to become another bureaucrat? Are you going to be the sop for the administration? Are you going to be the Jello that's going to absorb the shock or are you really going to carry things through?

(The aim of my office is to provide an avenue where an individual is heard and not simply shielded up to protect the institution from legitimate concerns.

Donald Hartsock, (first UCLA Ombuds)

Popular criticism describes mediators and other conflict professionals as spawns of the most powerful, wealthy and status quo, or paid appeasers and silencers of those suffering and conflicted within the status quo.

➤ **Discuss.**

### Applied Ethics, Authenticity (Congruence) & Third Party Effectiveness

Effective conflict process is a dynamic interplay between assertive leadership and receptive response. When conflict escalates with hostility erupting or threatening to emerge, however, even receptive response, such as active listening, must be strong.

A awareness of "the self asserting" is key. If one is not aware, or is ambivalent, about one's values, vision, beliefs... what is there to assert?



The most powerful persuasion and influence (“speaking truth to power”) comes from authentic deep conviction. How many know and communicate true passion? Our influence is directly proportional to our awareness of “who we are” and “what we stand for.”

Applied ethics, unlike philosophy or other abstraction, by its nature cannot simply be a mental exercise or intellectual discourse. Most have known someone who espouses moral principles as loudly as they blindly (hopefully not consciously) contradict them.

One of the popular international stereotypes of American is their skill at “advertising,” or using words, emotions and appearances that cannot be trusted. Quite bluntly, they say one thing and do another.

An in-depth, multicultural exploration of this perception would be extensive and complex. Without attempting this, we can acknowledge that our perceptions of our choices and behavior may differ from how others perceive us; there are times our words and ideals do not match our behavior and choices. Such areas and times of incongruence must be part of our inquiry with applied ethics, since we are exploring the moral consequences of our actual choices and behavior, along with our options ----- hopefully for the purpose of bridging the distance between espoused ideals and impact.

One reason for discrepancy between ideal and actual is unconsciousness. We think we are living one way, but on closer, more conscientious examination, contradictions emerge.

Sometimes we need othersto see this detail. Our subjective filters “skillfully” screen out what is challenging, perhaps threatening.

Congruence, or matching our words, perceptions and actions in others’ eyes, is fundamental to applied ethics, integrity, authenticity and our effectiveness as third party intervenors with conflict. If we perceive ourselves as carefully listening, yet parties to conflict see inattention and inaccurate summarizing of what has been “heard,” our effectiveness and credibility depend on learning to seek and receive honest feedback. If we perceive ourselves as impartial neutrals while the parties perceive bias, ethics as well as effectiveness, must be addressed.

We cannot depend on parties, however. In my work, particularly when asked to assist with managing violence, I am often concerned to see and hear signs of possible, impending crisis denied, minimized and avoided, particularly by leadership. If parties to conflict cannot see what is happening, we must ensure that we do.

### *Step 3*

You arrive at the meeting site. Unidentified community members arrive, register and seat themselves throughout the room. You do not know them, except two government staff you met briefly and the head of the diversity council (who hired you.) Another member of the diversity council introduces herself. Right before the meeting, a local leader arrives. She appears angry when she meets you; mutters something (which you suspect is derogatory.)

### *Cultural Exploration*

➤ **How do you respond to expression or display of anger?**

- 1) Encouraging honest expression of anger is important but should be guided, reframed and directed so that it occurs without personal attack, is not used to intimidate, and does not degenerate into hostile, unproductive “mud-slinging”, or**
- 2) When expression is in the form of verbal or emotional attack, it is violent and abusive; should not be tolerated or allowed, or**
- 3) Better to express “hot anger” honestly and openly, even if it sounds attacking, than to deny anger and show “cold” or passive-aggressive “behind the scenes” anger,**

and/or?

**Consider the following.**

I've been enraged all my life. But for half of my life I just didn't know it... I see this book as an opportunity to dignify the emotion of rage because it's such a repressed emotion in our society... Rage is the voice of our traumas, our violations, which are so often swallowed at the precise moment they occur. We have to go beyond a simple cathartic release and heal the space that rage has been occupying in the body, so we get to the stories the rage holds, the stories that embody our old, shame-based traumas...

R. King, *Healing the Heart of Rage*, Bay Area Business Woman, December 1999.

Anger is a signal, and one worth listening to. Our anger may be a message that we are being hurt, that our rights are being violated, that our needs or wants are not being adequately met, or simply that something is not right. Our anger may tell us that we are not addressing an important emotional issue in our lives, or that too much of ourself --- our beliefs, values, desires, or ambitions --- is being compromised in a relationship. Our anger may be a signal that we are doing more and giving more than we can comfortably do or give... Just as the physical pain tells us to take our hand off the hot stove, the pain of our anger preserves the very integrity of ourself. Our anger can motivate us to say "no" to the ways in which we are defined by others and "yes" to the dictates of our inner self.

Lerner, *supra*.

**Conflict Process**

**Trained Capacity: Reframing to Identify the Most Important Underlying Need or Concern**

Reframing is like paraphrasing at the level of meaning, with a focus on deeply understanding statements that sound negative; even attacking. Reframing views and aims to use all statements and attitudes, especially emotional "venting," as rich, golden opportunities to discover parties' most important needs and concerns.

Reframing acknowledges the reality that many parties in conflict are most sensitive, upset and challenged by the vulnerability of expressing to another what matters most. Many do not even consider working with conflict professionals unless they are struggling to identify what concerns them. Skilled reframing may articulate deeply felt concerns for the first time.

**Guidelines for Reframing Language to Hear And Assist Others In Hearing Most Important Underlying Message**

**What:** Be a role model leader committed to positive influence with the underlying concerns. Recognize that speakers may struggle with words when feeling strong anger, fear and hurt that they may not have dared express before. You need to fully

hear and understand their experience to gain adequate insight. Refrain from quickly interpreting another's perceptions, language or behavior as primarily directed against you or any other person;

**How:** Recognize and respond to the essential underlying feeling, interest or concern with impartial, empathetic language stressing the most important content;

**Why:** "Meeting" another, by responding to their most important need or concern, powerfully help them move forward. Their negative statement may quickly fade into insignificance or be appreciated with new understanding.

### *Ethical Exploration*

- Try the discipline of private journaling when you feel your most intense emotions, discomfort, anxiety...; attempt to identify and articulate what is most important. "Speak your truth," at least to yourself.

Canadian Terry Fox began the Marathon of Hope 21 years ago. On April 12, 1980, Terry dipped his artificial leg in the Atlantic Ocean and began his pursuit of a cancer-free world. For 143 days, Terry ran a marathon, on average, every day...

How many people do something they really believe in? I just wish people would realize that anything is possible if you try. Dreams are made if people try. Terry Fox (1980)

- **What do you believe in? Acknowledging and listening to your anger and pain might give you some clues.**

### **Conflict Process**

Not responding "in kind" to an attack leads, rather than reacts, and aims to influence constructively. Common experience shows us the downward spiral of reciprocating ("tit for tat").

In my experience, angry parties are particularly sensitive to judgment --- unspoken perhaps more than spoken. Jim Jorgensen, professor emeritus of social work at the University of Denver, taught *Managing the Angry and Dangerous Client*, where he shared research regarding attackers' perception of their victims. Attackers saw those they assaulted as disinterested, cold, uncaring and hostile. Attackers felt humiliated, or put-down. In short, attackers saw themselves as victims.

Perhaps this explains my experience with war --- interest and concern, or heartfelt empathy, powerfully diffusing anger. Particularly recommended is showing empathy through accurate and complete listening.

### **Checklist: Strong Listening**

\_\_\_ suspend judgment (keep mind open);

\_\_\_ focus on perspective-taking (seeing experience through speaker's eyes);

\_\_\_ validate;

\_\_\_ encourage;

- **listen actively:**
- **ask open-ended questions for free and complete responses**
- **clarify**
- **empathize when sincere**
- **search for speaker's essential concern(s) (What is most important? Needed? Spoken? Unspoken?)**
- **summarize and ask for correction; elaboration**

### **Conflict Process**

I wonder how many third parties to conflict fully appreciate their power, particularly how they influence the process. Examples of third party influence include: 1) the power of attention, reinforcement and affirmation, e.g. what is paraphrased and summarized (and what is not); 2) non-verbal response to expression of anger and intense emotion, including pacing: does the process speed up or slow down to ensure full and accurate understanding?

Once one of my students omitted a complaint of racism when reframing concerns! Fortunately the complaining party felt empowered and comfortable enough to confront the omission.

### **Ethical Perspective**

Mediation and other conflict intervention has been harshly criticized for pacifying, avoiding important conflict with essential social issues, and circumventing legal proceedings. A legal ethical perspective equates enforcement of law democratically developed with collective conscience and morality. A lawsuit with all of its legal protections: public record, scrutiny and precedent, is arguably more ethical than a private and informal negotiation or mediation, that conceivably can push for conformity and omit critical legal/constitutional rights.

My students have identified these positive reasons for conflict. Conflict stimulates personal and social change; preventing "groupthink" and other negative or stagnant group dynamics through opportunities to voice important opinions and grievances. Problems and needs are identified. Power may be redistributed. Tensions are released; possibly diffused.

Attention is directed where needed, hopefully increasing awareness. Stronger relationships can result, including group solidarity.

For those of us who want to make our society more just and are forced to go up against the interests of the dominant power structure, we have seen that it is often necessary to work outside the system.

Myra Elgabry and Jeremy Biasi, UC Berkeley students, *The Daily Californian* May 11, 1999.

*See, also* Herbert W. Simon, *Persuasion in Social Conflicts: A Critique of Prevailing Conceptions and a Framework for Future Research*, 39 *Speech Monographs* (1972) ("(I)nitiation goes exacerbating conflict maybe just as ethical as working at preventing, managing or resolving it.") Kenneth Keniston, *Youth and Dissent: The Rise of the New Opposition* (1971). ("(Y)ou should create conflict between those who condone or ignore injustice and those who wish to correct it.")

➤ **Discuss.**

*Stage 4*

Anyone who wishes to speak is free to do so. The meeting proceeds with one person speaking at a time. You summarize what you hear, check accuracy and completeness of understanding, clarify, and record all concerns on a large board in the center of the room for visual review and correction. Several minorities speak, including a representative for disability services. All claim discrimination of government funding.

The diversity council responds with its desire to rectify discrimination. No one else asks to speak, though a government leader suddenly rises during the middle of the meeting and announces that she must leave to use the bathroom.

Note: Several community members, including government and non-profit leaders, all white, are present. In fact, the room is filled to capacity.

*Questions*

- **Are concerns raised by the fact that only minority community members spoke; no government staff, including those involved in the complaints, spoke or responded?**
- **How do you respond to the following comment?**

*“It is unusual when white people are present and not talking.”*

*Ethical Exploration*

- **What are some concrete indicators of good faith dialogue? Information sharing? Response?**
- **How moral is:**
  - **Believing that you are consistently honest and open while viewing the world in ways that deny uncomfortable and contradictory truths?**
  - **Staying quiet and compassionate?**
- **Discuss.**

**Conflict Theory: Catalyzing Change in Toxic Systems**

**Extraordinary Information - Gathering: Astute Observation**

“Outsiders” to conflict, unfamiliar with the parties as well as the conflict, hopefully view them with “fresh eyes” and perceive information “unavailable” to the parties. Many would say this is our value. Parties escalating polarized conflict progressively lose their ability to accurately see and interpret their circumstances as they blame and focus on gathering evidence to prove the “other” wrong.

*Case Variation*

Along-time community resident responds. “We don’t have any racism here.”

### Questions

- What can be done with “the emperor has no clothes” or “see no, speak no, hear no evil” syndromes, i.e. denial in the face of contradictory evidence?
- How do you explain white U.S. citizens who say they are concerned but don’t know about “any of this” or are shocked to learn that “this” is happening? How have they lived in the United States and separated themselves from seeing racism? Shielded themselves from hearing about racism? Have they ever wondered or asked why minorities are not openly sharing experiences with them?

### Stage 5

Immediately after the meeting, several minorities compliment you. Most spoke earlier. They appear pleasantly surprised; some a little shocked to have felt heard and validated. You assume you will be asked to proceed with future meetings until some satisfactory response to expressed concern evolves.

### Stage 6

You summarize and organize concern expressed at the meeting and submit them in writing to the diversity council for public review and comment. You wait for a response but hear nothing.

You hear through the community grapevine that other facilitators were asked to do a second meeting, participants were unsatisfied, attendance decreased to “nothing;” some meetings stopped. Despite calls, you never hear off follow-through regarding the concern expressed at the first meeting.

### APPLICATION

- What are possible reasons the first mediator was not called back?
- What might the mediator have done differently to prevent Stage 6 or increase likelihood that the dialogue continue and needed change occur?

### Conflict Process

In-depth systems analysis requires diagnosing information gathered by noticing patterns and asking what interests are served by what may appear to be destructive or counter-productive response.

### APPLICATION

- Identify some of the interests described above and what is or may be served by the status quo.
- Government
- Community Denying Racism
- Quiet Community Observers

### Assessment: Toxic Systems

- **Directions:** As much as possible, complete the following sentences with specific concrete detail, e.g. words of conversation, non-verbal behavior.... from the case study. If data is lacking, create a question to learn more. *Note: This assessment can be used with any system and group: family, organization; community.*
- I would describe this system’s environment as.....

- I would describe communication within this system as:
- How open and honest is communication? How well do members know each other and appear to want to know each other and important experience?
- Feelings (e.g. hurt, disappointment, anger...) are regarded and treated as:
- Personal perceptions are:
- Conflict and problems, e.g. stress, personal challenges, are handled by:
- The results are:
- Aggressive/violent/abusive and other unethical behavior is modeled as/by:
- Authority/leadership models:
- Behavior rewarded includes:
- Reinforcers for aggressive and/or unethical behavior include:
- The following inequity or perceived unfairness is or may be present:
- I would describe these additional systems, interactions, conversations and behaviors as toxic:

### TOXIC SYSTEMS CONTINUUM

*Dominance & Resistance to Collaborative Change ..... Mistreatment*

**Examples:** Members “controlled” through suppression and fear. Their concrete experience includes threats, verbal attacks, negative consequences for open, honest communication, destructive criticism, punishment and humiliation;

**Behind-the-scene exclusionary alliances, maneuvers, sabotage and jockeying for position/power;**

**Passive-aggressive hostility, e.g. not showing up for meetings, ignoring speakers;**

**Manipulation and dishonesty (“Walk contradict talk.”)**

**Inequities.**

#### *Ethical Reflection*

I struggle with the persistence of racism in my society. How can I be proud when grandparents describe lynchings and embarrassment with “get to the back of the bus?” If I first remember refusing to stand for the pledge of allegiance in junior high, though it may have started earlier --- the awareness that something wasn’t right with “liberty and justice for all.” Growing up on the north side of Milwaukee, may be it began with being bussed to black kids’ schools. (For the first few years black kids were, in turn, bussed to my schools. We barely saw each other.)

My eyes opened wide when I volunteered as a probation officer, the invisible white woman allowed to watch the white officers scream at my black client behind closed doors. Years later I still feel sick. My client was a kind old man — a single parent to three children.

You would think that my invitation to live with a migrant farm worker's family in the projects would have balanced my perspective. Instead, it tasted despair --- no surprise when Manual Sr., a man of few words, finally spoke and told me he would rather be dead than be a disabled farm worker with a young family. I cringed when pimps rode by. I was scared when ringing doorbells. Someone high or loaded might open the door. Yet I was welcomed by my neighbors and surrounded by community --- mothers fighting for their children's future; grandmothers devoted to their babies. No suburban cliques or secrets here. I was so welcomed that the day I returned, a year later, eight-year-old Juan started running as soon as he saw me --- two blocks before we met. Thirteen-year-old Manual prepared all the songs from "Freeto Be You and Me" to sing behind closed doors. And my life changed when I heard eleven-year-old Rosa, sweet Rosa who had made me God's eyes, might be hanging out with older men on the streets.

What do I, a white woman, do? When an African immigrant asks me why the white man wiped off his sleeve when he accidentally touched him? When a California acquaintance complains about those immigrants? Mention that I grew up hearing my family speak three languages? What do I do when my Brown friend, a member of the school board, is followed in the grocery store? When the police stop my car only when I drive through the "Indian neighborhood" with an Indian friend (who has her master's degree in social work)? When another Black parent shares the anguish of having her son followed by the police? What do I do when I go into another liberal community "where we get along so well," and walk across a color line?

I know the contempt shown by white liberal women who smile, but this is not about you. What do I do when racism and its legacy rip me apart? How do I identify or relate to those who look and sound like me and don't get it, or say it's part of our past? I do not want to negotiate with any more police smelling of alcohol, and barking German shepherds, as my Black Harvard and Stanford educated friend stays upstairs. There are costs to me as well from this very old why are you still a part of my life madness.

I am not asking to save or make peace with myself on your backs. The truth is you have helped me more than those who look and sound like me but refuse to discuss this part of our lives or act innocent and concerned: would you tell me more --- explain it to me. Thank God for the saints in my life, with faces radiating wisdom and love: the older Black woman whose eyes dissolve in tears in the face of minority anger with my minority friendships. Putting her hand over mine, she smiles and says, "That's racism." The older Black man who raised his hand during class: Do you think there's an intuitive instinct bridging culture? My Black friend reassuring me that she can handle a racial attack because she does so "all the time." My American Indian colleague sitting patiently as I attempt to explain cultural differences to a white attorney; apologizing after getting upset when I break a cultural norm.

There is a popular theory attributing violence to poverty and other oppression and injustice. Later I will explore alternative explanations. For now, I would like to say that my experience has been the opposite. Over and over, I have been amazed with how much my friends, clients and colleagues endure. How do they continue, day after day, to face such wrong, such offense with dignity and peace? How do they stay so strong?

### *Ethical Exploration*

- **Identify one or more realities not "seen, heard or expressed" in your life experience. Experiment with probing publicly or tiptoeing closer and observe reactions; consequences. Denial and its expectation of a need for collective collusion (or implicit agreement not to probe) may announce itself with volcanic potency. Returning to the concept of "Best Alternative," identify some of the risks and costs of "speaking out."**



### ***Case Study Postscript***

About a year after the above dialogue, minority leadership reports new and improved, more fair allocation of funding.

### ***Exploring Possible Third Party Conflict Intervenor Competencies***

#### **Impartiality/Neutrality**

Conscious of destructive intergroup dynamics: in/out group attacks, criticism, prejudice, put-downs, blame and scapegoating, and self-fulfilling prophecy;

Inconsciously do not "take sides" or reinforce destructive dynamics and instead experiment with constructive responses such as:

Observing process dynamics in concrete detail and searching for insight;

Express my discomfort with large group as a whole or in individual private meetings, i.e., caucus, and explore ways to change and eliminate destructive dynamics;

Reframe--identify interests and concerns simply in "venting;"

Consciously reinforce positive behavior and attempt to extinguish negative without ignoring essential meaning: interests/needs;

Assert need for constructive "ground rules" and request group attention to process before proceeding;

Look for commonalities and try positive options for increasing parties' unity;

Consciously notice my criteria for judging others by examining my behavior and requesting feedback; am particularly aware of how I might be allowing myself to be manipulated or intimidated by others, e.g. give more to those who are critical, withholding, "hot/cold" or otherwise challenging;

If in doubt, consciously pull my focus away from explaining or critiquing the "other;" explore my options and ethical responsibilities; seek consultation if needed;

Other ideas: \_\_\_\_\_.

### **ROLE-PLAY SIMULATION**

#### **Cast of Characters**

1. Diversity Council Members
2. Vocal Minority Leadership: At least five different groups, including disability services
3. Various Community Members
4. Government Staff
5. Government Leader
6. Majority Non-Profit Leadership
7. "We don't have any racism here" resident

**Case Study Series: (Chapter 6) Cultural Competence: Ethical and Empowered Response  
With Discrimination**

#6

Sometimes you seem like the only white person around. When you relax into your welcome, you appreciate the opportunity to be intimate with a culture new to you.

You mediate child welfare cases with advocates from a local cultural center at their request. You think you notice a pattern. Many government workers mention “messy homes” and “poor housekeeping.” Cultural advocates stress extended family and community relationships with children. At times it seems like the groups speak “different languages” and simply do not understand or appreciate each other’s perspective.

**APPLICATION**

➤ **Identify cultural issues and assumptions.**

*Note: Unfortunately, general terms like “cultural” and “minority” are used in this case series rather than rich, specific descriptions, due to the prejudice often still encountered with specific labels. Perhaps someday we will know each other well enough to appreciate rather than misjudge difference.*

**Questions**

➤ **Can there be well-intentioned prejudice? Ignore it?**

**Cultural Exploration**

That was the morning Ann began her cleaning... (She) never grew frantic; her mania did not lie in hustling and bustling but in keeping it... with tenacious thoroughness... (until) it seemed as though she had succeeded in polishing away the dark shadows of light itself. But still she cleaned on, with quiet perseverance, on the trail of grimethat only here eyes could discern... Seent through Maria’s eyes, (her mother) was like a scientist... who has... set herself a goal. This goal is the lamentable petit-bourgeois dream, doomed in advance, of getting to the bottom of things and exterminating the last, the very last, microbe... we are honest and we keep a very, very clean house.

Peter Hoeg, History of Danish Dreams (1988).

- **Discuss the above statement in relation to your own cultural experience. How important is cleanliness? What does it mean?**
- **Optional: List several of your cultural values; rank them.**
- **Watch yourself “in practice.” Which values do you apply or live most? How are they ranked in your daily life?**
- **How do you propose addressing ethnocentrism, i.e. belief in the superiority of one’s own cultural practices, values, etc.? What if the ethnocentrism is unconscious? Denied? Defended against?**
- **In what ways might each ethnocentricor be perceived as being so even when we do not wish or intend to treat others’ beliefs or behavior as less than our own?**

- **Is it possible to value and become committed to features of one's own culture without seeing them as superior?**

Related to party recognition is the concept and practice of cultural competence. Dr. Dorothy Riddle uses cultural competency to describe the scales she developed to measure attitudes and actions toward difference (based on research regarding homophobia.)

Repulsion: People who are different are seen as bad, crazy, immoral, sinful, wicked... Anything is justified, and even encouraged, to keep them separate or change them, including violence.

Pity: People who are different are seen as inferior but not responsible for their condition. They deserve care from a position of power. Actions to improve different people are appropriate even if not welcome by the recipient.

Tolerance: People who are different are tolerated, with the expectation that their difference will disappear or lessen with time, effort and their desire to be less different.

Acceptance: Accepts person but denies past and current social realities that have legitimated and encouraged oppression.

Support: Works to safeguard legal rights of people who are different and oppressed regardless of personal comfort/discomfort.

Admiration: Acknowledges strength in being different.

Appreciation: Values diversity of people and works against prejudice in self and others.

Nurturance: Assumes all people are indispensable to society, feels genuine affection and delight in diversity and advocates for all difference.

*Psychology and the Gay Community*, 34 Journal of Social Issues no. 3 (Dorothy I. Riddle and Stephen F. Morin, eds., 1978).

## **APPLICATION**

- **Reflect on some of your own experiences with the cultural attitudes described in Dr. Riddle's work. Cultural sensitivity and insensitivity, or awareness and ignorance, may be more familiar and easier to consider than "cultural competence."**
- **When have you felt offended, outraged, hurt or simply confused by another's response?**
- **Have you ever been surprised by someone's cultural awareness, sensitivity, openness, consideration or appreciation?**
- Optional: Discuss your experiences with others where you feel safe.
- Interview others regarding their cultural experience, identify specific examples and collect quotes for each of Dr. Riddle's categories: repulsion, pity, tolerance, acceptance, support, admiration, appreciation and nurturance.

### ***Ethical Perspective***

What do we mean and intend when we say mediators are neutrals? This may be the single most important and controversial ethical issue neutrals face. If we mean "value free" or "empty," we spark heated debate.

The ombuds function is described

as “sensor” within the... community to identify problems or trends that affect the entire... population or significant parts of the community. (They) provide early warning of... areas of... concern, upward feedback, critical analysis of systemic need for improvement, and make systems change recommendations.

See, e.g. Job Description Campus Ombuds person, UCLA; see also, Janis Schonauer & Ron Wilson, *Conceptualizing the Ombudsman Office*, UCI Ombudsman: The Journal (1993), available at <http://www.ombuds.uci.edu/JOURNALS/1990/conceptualizing.html>.

(“The ombuds plays two primary roles: “truth teller” and “institutional conscience”... an honest attempt to... provide justice.”)

➤ **Discuss.**

**Postscript:** After an extended conversation regarding one child welfare case, the white male attorney representing the state, sees value within visiting the extended family (concerned grandparents, aunts and uncles) to mediation discussing the child’s future, rather than immediately proceeding with removing the child from the family, without discussion.

**#7:**

A minority mother is outraged. Her son’s middle school reported child abuse without calling her or asking her perspective. She only learned this when her son shared that the vice principal mentioned “placing him in foster care” immediately after he told his teacher how his mother disciplined him.

This is the only problem this parent has had with any school. She also has a teenage daughter. There is no history of child abuse. Her son had no physical signs of abuse.

You mediated disputes for the school district and call the mother.

“This is outrageous and only happened because of my color. If I were white, they would have called me first.”

**Questions**

- **What ethical issues are present? What are your options? Discuss several, considering consequences.**

**Note:** This case study deliberately does not reference any particular state law regarding mandated reporting of child abuse or describe the legal context. Researching state laws and integrating the results into this case study would be an interesting exercise. For example, some existing state laws do define child abuse in ways that conflict with practices of various cultures. Also, depending on state law, a school may be required to report possible child abuse without first notifying or discussing the basis with the parent.

- **Without considering specific legal context, attempt to describe power dynamics; the school’s good faith (or lack of):**

### *Ethical Perspective*

(What matters most in the organizational world) is not what a person is but how closely his many persona mesh with the organizational ideal; not his willingness to stand by his actions but his agility in avoiding blame; not what he believes or says but how well he has mastered the ideologies that serve his corporation; not what he stands for but whom he stands within the labyrinths of his organization.

R. Jackall, *Moral Mazes: Bureaucracy and Managerial Work*, Harvard Business Review (1983).

- **Discuss your experience with bureaucracies and other large organizations.**
- **Brainstorm ways to confront racism and illegal discrimination: mediator and party options:**
- **Is a good faith collaborative process possible? What is necessary?**

### *Ethical Perspective*

The mediator shall assess the ability and willingness of the participant to mediate. The mediator has a continuing duty to assess (her or his) own ability and willingness to undertake mediation with the particular participants and the issues to be mediated. The mediator shall not continue and shall terminate the process, if in (her or his) judgment, one of the parties is not able or willing to participate in good faith.

Family Law Section of the American Bar Association, Standard of Practice for Lawyer Mediators in Family Disputes (1984).

Mediation is harshly criticized as a means to circumvent constitutional protections and avoid important public record, scrutiny and precedent with discrimination and other human rights violations, particularly when victims are not aware of their legal rights. The ideals of a constitution and democracy consciously embrace, honor and encourage a balance of individual (minority) rights with collective (majority) will.

We hold these truths to be self-evident that all... are created equal; that they are endowed by their Creator with certain unalienable rights.

United States Declaration of Independence, 1776.

The 14<sup>th</sup> amendment of the U.S. Constitution elaborates that "no states shall deny to any person equal protection of the law." Protected classes include age, sex, race, color, national origin, religion and disability.

With public disputes, such as those involving public schools and other government agencies, the U.S. Constitution provides that "no states shall deprive a person of life, liberty or property without due process." In many parts of the United States, due process means notice and a hearing with legal counsel, evidence, cross-examination ("innocent until proven guilty") and written findings, conclusions and recommendations, or a written record for appeal as a safeguard against human error.

### Questions

- **How realistic is the presumption of a “spirit of equality” --- that participants can be trusted not to exploit or manipulate a mediator? What is the mediator’s ethical responsibility?**

*Postscript:* The mother’s protest stops child welfare proceedings. As a public administrator, married to an engineer who has worked internationally, perhaps her advocacy and negotiation skills made the difference.

- **Discuss.**

#8:

A fourteen-year-old minority male is suspended for dealing drugs in school. No school employees speak to the mother until the day of mediation, when she calmly and pleasantly informs everyone that she is struggling with cancer. She is happy to be present to talk personally. Three school staff are present with the school attorney.

### Questions

- **How do you interpret the school’s slack of communication with a parent? Minority parent?**
- **Is a good faith mediation possible? What is needed?**

### Ethical Perspective

If the underlying problem is prejudice --- stereotyping, intolerance, lack of historical knowledge, lack of sensitivity to what wounds others, is a broad spectrum... of administrators... making the most of their opportunities to challenge beliefs? Do they condemn vigorously, expressions of bigotry, or racial and ethnic slurs....? Or, does this activity fall almost exclusively to... few of whom may carry... rank and status and who already are alert to such issues?

*Comments... from Harassment: The Evolving UMP Policy, UCI Ombudsman: The Journal (1993), at: <http://www.ombuds.uci.edu/JOURNAL/1990/comments.html>.*

- **Continue to discuss the challenges involved with assessing institutional good faith and the capacity for good faith necessary to proceed ethically with mediation.**
- **How should a mediator respond to party difference in: Power? Class? Status? Age? Ability? Ethnicity? Color? Gender? Other indicators of possible discrimination and oppression?**

### Ethical Reflection

As a teacher of conflict resolution and former trial attorney, I know intimately the risks our legal system poses with regard to destructive escalation of conflict. Asking participants to declare themselves victims innocent of responsibility, without options except to blame “the bad guy,” prove their case, and perhaps seek revenge, risks reinforcing the worst of cognitive distortion and toxic group dynamics. One of the benefits of informal and personal conflict processes, like mediation, as contrasted with litigation, is the opportunity to “know the enemy,” deconstruct negative and misleading enemy images, and, hopefully, build (rebuild) important relationships.

(Self-determination)... They can see: we made (our own agreement) is not only important for (party) esteem, but generally allows for the future to live or work together. At the moment, mediation plays a major role in family law, that means disputes in connection with a divorce. Children are frequently affected by a divorce; therefore mothers and fathers should keep up (the best possible) contact.

Anja Zuckmantel (translator), *supra*.

On the other hand, separating people from the problem leaves the problem to be addressed. True wrong deserves strong and principled response. What is the appropriate role for informal "justice," particularly with oppression repeatedly perpetuated by a collective society over time?

I am a lawyer who headed a Bar association committee for improving the availability of the legal system for the poor. I have designed legal education to help those, who cannot afford or otherwise access legal representation, advocate for themselves within the legal system.

I am simultaneously aware of the legal system's limitations. I have represented low-income clients in front of judges with untreated mental illness, blatant bias and simple inability to comprehend sophisticated legal arguments.

Judges are human beings like the rest of us. They range from the finest I have known, to those with whom I would not personally associate. I cringe when others must rely on the latter's judgment.

The same can be said for lawyers. Most American public is well aware of the "pimp" lawyer; unfortunately, not as often acquainted with the fine and courageous civil servants I have been fortunate to know.

I wish I did not believe that trust-worthy lawyers are becoming more and more necessary as allies in confronting widespread corruption, exploitation, oppression and injustice. I left my litigation practice many years ago, concerned that most who need me could not afford my services and convinced there had to be a better way to serve my community; perhaps a way to prevent the tragedies ending up in court.

In an ideal world, we would not need trial attorneys. Bureaucracies (healthcare, government, insurance, corporate, religious) and the trial leaders would consistently show willingness and ability to acknowledge and address their mistakes and omissions. Until that ideal day, however, informed, empowered strategy and strategists are required to fight this war against wrongs.

- **When does discrimination and other wrongs raise critical questions about party capacity or ability to self-determine: negotiate for and represent oneself in mediation? Should the "hindered" party be part of this discussion?**
- **When will parties be better (or less) able to self-determine in a legal process?**

#### ***Ethical Perspective***

Sometimes parties to conflict prefer mediation, or wish to try mediation; at least face-to-face discussion, before considering a lawsuit.

Self-Determination: A Mediator Shall Recognize that Mediation is Based on the Principle of Self-Determination by the Parties.  
American Arbitration Association, American Bar Association And Society Of Professionals In Dispute Resolution, Model Standards Of Conduct For Mediators (1994).

### *Standard V: Self-Determination*

*A mediator shall respect and encourage self-determination by the parties in their decision whether, and on what terms, to resolve their dispute, and shall refrain from being directive and judgmental regarding the issues in dispute and options for settlement.*

A mediator is obligated to leave the parties full responsibility for deciding whether, and on what terms, to resolve their dispute... This is a key aspect of her impartiality, which permits the process to educate and empower the parties rather than provide an externally imposed solution to the problem...

In general, the question is when, if ever, the mediator can and should abandon the nonjudgmental posture and be more directive. It is not worthy that this type of dilemma was reported more often than any other. It clearly represents a central concern of mediators.

Baruch, *supra*.

#### ➤ **Discuss.**

#### **Case Study #9:**

You mediate insurance claims. In this case you are hired by the insurance company. A co-mediator is hired by the private party. You meet.

Co-mediator: "I'm happy to report I've started doing legal research for "my party." They need all the help they can get against this big (bad) insurance company."

#### **Questions**

- **How do you respond? What ethical issues are present?**
- **How would you describe the power dynamics here? Your options? Discuss consequences.**
- **Are some institutions, systems, groups, like big business or the insurance industry, "worth demonizing"?**
- **How would you behave if you perceived more powerful interests or parties dominating a conflict process or risk that they might? Describe your ethical reasoning.**

#### **Ethical Perspective**

A mediator cannot personally ensure that each party has made a fully informed choice to reach a particular agreement, but it is a good practice for the mediator to make parties aware of the importance of consulting other professionals, where appropriate, to help them make informed decisions.



The mediator shall inform the participants of the need to employ independent legal counsel for advice throughout the mediation process. The mediator shall inform the participants that the mediator cannot represent either or both of them... in any legal action. *Id.*

- **What if parties cannot afford legal counsel? Possible research: interviewing mediators regarding their options in these circumstances.**

### **Case #10**

A local pre-school calls you. One of its parents wants to mediate her divorce. Child sexual abuse is being investigated, but the mother pleads with you to mediate.

The father is an active (non-recovering) alcoholic. She wants to mediate an agreement so he will not drive with their two-year-old daughter while drunk. The mother has been to local family court for temporary arrangements. The father was granted weekly unsupervised visits.

Here is some of your conversation.

Mother: "I need your help. My husband drinks and drives with our two-year-old. We were just in court, but the judge said nothing about my husband's drinking."

Mediator: "Normally mediation is not appropriate with an alcoholic or addict. What good would an agreement do?"

Also, sexual abuse requires serious legal response."

Mother: "But the judge ignored me. What else can I do?"

### **Questions**

- **What ethical issues arise? What are your options, considering consequences?**

### **Case Study #11:**

An acquaintance of yours, a well-known and respected psychologist and revered member of a local non-English speaking community, asks you to co-facilitate a discussion at a local elementary school. The topic is several recent fights between students, as young as six years old, with racial slurs and physical aggression like biting. You agree to co-facilitate.

**Meeting:** You arrive to a room filled with non-English speaking families enjoying dinner. As everyone organizes to begin the meeting, you notice two other parents you know --- one is African American; the other is from another country but has lived in the United States for many years. Neither speak the language predominant at this event. Your co-facilitator begins the meeting in that language. Periodically, he translates some of what has been said into English.

**Note:** You later learn that several of the parents present only speak the lead facilitator's first language.

### **Questions**

- **How do you respond?**
- **What ethical issues do you see? Discuss options, considering consequences.**

### ***Ethical Perspective***

(T)he idea that language can be used in a *completely* neutral and objective way is untenable... We have no sooner uttered words than we have given impulse to other people to look at the world or some small part of it, in our way.

*Source Unknown.*

#### ➤ **Discuss.**

**Case Variation:** Another group has gathered at the same school to mediate the sentence of a juvenile (thirteen-year-old former student) convicted of school theft, as part of the victim-offender reconciliation and county diversion programs for first-time offenders. Interpretation is provided of the English used during mediation.

#### ***Questions***

- **What ethical issues arise? How do you (one of the mediators) respond?**
- **How would you describe the power dynamics here?**

***Note: The first language of the juvenile's mother is not English. She understands very little English.***

### ***Cultural Perspective***

In a survey of conflict participants from the Balkans, Cameroon, Nepal and Ukraine, the most effective and helpful process was democratic. Participants most appreciated equal treatment: that all participants were noticed and introduced and all views welcome and respected. They were able to self-determine: voluntarily create their own consensus through direct communication and working together.

My multicultural classes, at the University of California, Berkeley, also valued democratic or inclusive process where contribution and participation by all is encouraged. They mention the importance of welcoming everyone, allowing participants the opportunity to speak for themselves, and providing equal treatment, including time.

Implicit in any statement about parties' exercise of autonomy and self-determination are several assumptions that are useful to examine closely. Foremost is the assumption that parties are actually exercising autonomy, or self-determining. It would certainly advance the state of mediation, and other collaborative conflict models espousing self-determination, to actively evaluate this premise from the party perspective. How often does a party perceive the process and its outcome as her own?