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MYTH

THE CONFLICTS OF DIVERSITY, JUSTICE, AND PEACE IN THE THEORIES OF DISPUTE RESOLUTION

A MYTH: BRIDGE MAKERS WHO FACE THE GREAT MYSTERY

Beryl Blaustone*

You tell your story
I tell mine
You tell my story
I tell yours
You change my story
I change yours
What matters is not your voice
Nor mine
What matters is the voice of the story
As long as this voice still tries to tell the story, then all is not lost.

Garrison Keillor1

INTRODUCTION

THIS myth: Bridge Makers Who Face the Great Mystery was drafted for oral presentation (mythic story telling) at the National Conference on Peacemaking and Conflict Resolution (NCPCR) at its seventh international conference in Portland, Oregon in May 1993. NCPCR is where significant exchange of scholarship and application take place among the diverse constituencies and subject matter areas that make up the dispute resolution field.3

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Professor Isabelle Gunning, Southwestern University Law School, encouraged and contributed to the evolution of this myth during the five months of its creation. This myth would have been significantly diminished without her nurturance. I also acknowledge her for her contributions to this writing. I thank Sean Mulligan, Research Assistant, for his valuable contributions to this article.

2. I subsequently presented my myth at the 21st Annual Conference of the Society of Professionals in Dispute Resolution in October 1993 in Toronto, Canada at a session entitled: Forum on Gender Issues.
3. “NCPCR was created to promote the use and acceptance of nonviolent approaches to the resolution of conflict and to improve conflict resolution theory and practice. As a conference
The organizing theme of the 1993 NCPCR Conference was "Diversity, Justice, and Peace." The conference focused on examining the diversity and multicultural issues taking place in the practice and in the institutionalization of dispute resolution both within and beyond the legal system. The principle goal of this focus was to promote inquiry and reflection about the current situation and the changes that need to take place in the future.4

I co-convened a session with Professor Isabelle Gunning, Southwestern University Law School, entitled: "Mythic Story Telling: The Reflective Mediator’s Search for Values in Reconciling Neutrality, Diversity, and Multi-Culturalism." We designed the session to foster story telling as the means for dialogue on the conference themes. First, I delivered my myth. Then, Professor Gunning told several stories. Afterward, the audience was encouraged to tell stories as the means of discussing the issues of diversity, justice and peace.

The conference themes are not new areas of discourse among scholars and practitioners. However, this discourse has often been diminished by resistance, adversarial posturing and the lack of genuine exchange of ideas. I decided that it was time to craft an epic story which put these issues in a different form for dialogue. This created a context which simultaneously depersonalized the issues and challenged the individual to reevaluate her/his own perspective. Ideally, this challenge served as an opportunity for growth rather than a threat to self-concept.

Story telling plays an important role in the voice that I contribute to the ongoing debates within dispute resolution and legal education.5 Story telling without walls, NCPCR facilitates coordination among individuals and organizations within the field. The focus of NCPCR activities is on conflict resolution and peacemaking activities conducted in the United States, while also serving as a link to similar activities around the world.” Statement of Purpose, 1993 NCPCR Conference Announcement (on file with author).

4. The 1993 conference explores the challenge and potential of diversity—how peace and justice can be created and sustained in a world where difference is inevitable.

We will address questions such as:

1) How do our diverse identities shape conflict in interpersonal, community and international settings? How does such diversity contribute to creativity and growth?
2) Are there unique requirements for training or intervention when differences in gender, racial/ethnic backgrounds, class, age, religion, sexual orientation, physical ability or political ideology are central to conflict?
3) How do diversity issues affect conflict in family, community, business, school, public policy, religious and legal arenas?
4) What are our images for peace and constructive dialogue in a diverse world?
5) How can peacemakers and conflict resolvers respond to diverse ideological, theoretical and strategic approaches? How do we support diversity within our communities?

Conference Theme, 1993 NCPCR Program at 2 (on file with author).

5. Keynote Plenary Address Before the 1992 Statewide Annual Conference for the Virginia Mediation Network; Through the Looking Glass: Visions for Our Critical Exploration of Mediation Theory and Practice (unpublished manuscript, on file with author). See also Beryl Blaustone, To Be of Service: The Lawyer’s Aware Use of the Human Skills Associated with the Perceptive Self, 15 J. LEGAL PROF 241 (1990) (containing the fictional dialogue “Ebenezer Scrooge: A Tale of Lawyering Past and Future”); Beryl Blaustone, Teaching Evidence: Story Telling in the Classroom,
continues to play an important role in how I teach in the large classroom context as well as how I create simulations and role plays in training and clinical supervision.

Further, the craft and consequence of story telling has received serious attention in the development of learning theory within the fields of education and psychology. Story telling is powerful because it contains the potential for the listener to hear content in new ways without premature judgments, rehearsed reactions and defensive withdrawal. Thus, my objective was to craft an engaging story of mythic proportion which would invite my colleagues to reflect on the


6. I use the term “learning theory” to refer to the bodies of scholarly literature in the fields of psychology and education that examine the mental functions used in the learning process. Learning theory focuses on heightened retention, recall and performance by the activation of all mental processes in completing a particular learning task. With logic and emotion working together, greater association allows for improved recall. See Peter Kline, The Everyday Genius: Restoring Children’s Natural Joy of Learning—and Yours Too 54, 72-73 (1988). Dr. Georgi Lozanov of Bulgaria began the development of integrated learning with his pioneering study of the mental processes of successful learners. Id. For the ease of learning, Dr. Lozanov’s theory advocated recreating the conditions associated with the first years of life, a period when there are few constraints or learning blocks to impede the functioning of either half of the brain. Id. at 65, 72-73. These early conditions are recreated by promoting curiosity and by overlaying several different modes of stimulation in understanding any matter. Georgi Lozanov, Suggestology and Outlines of Suggestopedy 5 (1978).

Dr. Lozanov’s theory states that learning occurs with less concentration if the learning environment is relaxed in a way that stimulates both linear thinking and imagination. Colin Rose, Accelerated Learning 2, 11 (1985). Rose explores methods of using the power of association to employ conscious and subconscious thought simultaneously in learning. Linear thinking and imagination compliment each other and, if the two are used together, lead to increased “potential of the brain for learning and creativity.” Id. at 15.

In the United States, there are a number of scholars developing this basic theory of an integrated use of the self in the learning process. Among these individuals are: Dr. Peter Kline, a former trainer at the Lozanov Learning Institute in Washington and author of The Everyday Genius, supra; Dr. James Quina, author of Effective Secondary Teaching: Going Beyond the Bell Curve (1989) (exploring new methods of teaching to get beyond the limits of linear thinking and incorporate theory and practice in various modes of learning); and Dr. Ivan Barzakov, from the Barzak Educational Institute.

In perceptual research, Dr. Paul MacLean developed the model of the triune brain as a schema for achieving full human potential in any task. To function completely in creative tasks, one must jointly use parts of the brain responsible for intellectual activity and parts responsible for feeling and emotion. Achieving full human potential is possible when both the neo-cortex and the limbic system are engaged in the activity. The third part of the triune brain controls involuntary and lower order functions. Paul MacLean, On the Evolution of the Three Mentalities, in 2 New Dimensions in Psychiatry, A Worldview 305, 313-19 (1977).
conflicts of diversity, peace and justice in our practice of dispute resolution theory.

The specific role of myths in culture carries significance beyond general story telling. General story telling, or narrative, may not intentionally contain cultural archetypes, moral lessons, values or philosophical critiques. Myths are traditional stories of "ostensibly historical events that serve to unfold part of a world view of a people or explain a practice, belief, or natural phenomenon", a myth is a story that embodies "the ideals and institutions of a society or segment of society".

Mythic story telling has a long established history among many cultures as the vehicle for conveying cultural norms and moral standards and for promoting reflection upon the perpetually unresolved, complex issues facing the social order.

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7. The use of innovative teaching methods can go beyond the limits of linear thinking and develop the ability to explore theory. Learning is nurtured by incorporating simultaneously conscious and unconscious thought. When listening to a story, the listener is invited simply to enjoy the story, to let it in, and to forego any concurrent conscious analysis of the content. Such activity should occur for the listener after the event on deeper levels of mental function. Seeds have been planted which may then crop up from time to time, presenting new opportunities for reflection and learning.

8. WEBSTER’S NINTH NEW COLLEGIATE DICTIONARY 786 (1986).


The works of Black Elk and Eagle Walking Turtle deserve special emphasis because I share their world view. Both Black Elk and Eagle Walking Turtle subscribe to the view that the distinct, diverse peoples of the world all have essential or core portions of human knowledge. Therefore, discovery of a complete body of knowledge is possible only by engaging in interaction with diverse peoples. Significantly, this concept of acquiring truth by incorporating everyone's version of the experience is also the theoretical rationale for building understanding and agreement in any mediation process.

I argue later, at infra notes 13-14 and accompanying text, that there are core values or universal premises to the mediation process that are true across cultures, races and gender. Therefore, it is important to note that I view the origins of mediation within the United States as not entirely a product of dominant culture. This point is vital to grasp in recognizing the co-existence of diversity with these universal themes. For instance, there are other historical trends to present day dispute resolution in addition to the utopian communities' mediation structures in their justice systems. These influences include mediation practiced in: different Native American cultures; early Chinese immigrant communities; and early rural midwest immigrant farming communities. The point of this nutshell historical commentary is that we should not view the emergence of mediation simply as a by-product of our Western Justice System. See JEROLD S. AUERBACH, JUSTICE WITHOUT LAW? RESOLVING DISPUTES WITHOUT LAWYERS (1983).

As already mentioned, I tend to instruct and write with a heavy emphasis on narrative. This is both the result of my study of learning theory as well as my individual predilection to conceptualize with metaphor and narrative.
Bridge Makers Who Face the Great Mystery is designed to raise questions along several different lines of inquiry. This new myth raises the issue of whether there are inherent core values in mediation. In my theory and practice, I have asserted that core values in mediation exist which give meaning to the instrumental definition of mediation.¹⁰ The reflective mediator must constantly ask herself why she makes the choices she does to mediate a particular case and how she actually mediates it.¹¹ Further, I assert that the intervention is no longer "mediation" when any of the core values are abandoned in the practice. Unlike other commentators, I assert that these values co-exist in a non-hierarchical, non-linear frame work.¹²

¹⁰ My instrumental definition of the mediation process is the intervention by a neutral third person into the conflicts or transactions of others for the purpose of exploring mutually acceptable outcomes. The reader can observe that my instrumental definition includes reference to core values by framing the purpose of intervention as "exploring mutually acceptable outcomes" rather than for the purpose of settlement. See generally Blustone, Training the Modern Lawyer supra note 5.

¹¹ See DONALD SCHON, THE REFLECTIVE PRACTITIONER: HOW PROFESSIONALS THINK IN ACTION (1983). Schon is a leading authority on the decline of professionalism in western culture. His work traces and examines the development of professionalism. He explains the development of "rational technology" as the prevalent model of professional role with the correlative public dissatisfaction with professional service. In contrast, he posts a model of effective practice which also requires conscious use of non-logical processes and acquiring knowledge through reflection in action.

This theory is also known as mindfulness, which is self-awareness in thought, action and reflection. Mindfulness has also been explored in psychology as well as in religious theology. For examples see: YU-LAN FUNG, A SHORT HISTORY OF CHINESE PHILOSOPHY (Derk Bodde ed., 1948); THICH NHAT HANH, PEACE IS EVERY STEP: THE PATH OF MINDFULNESS IN EVERYDAY LIFE (Arnold Kotler ed., 1991); Adolf Von Harnack, The Essence of Christianity in THE WORLD TREASURY OF MODERN RELIGIOUS THOUGHT 378 (Jaroslav Pelikan ed., 1990); ABRAHAM J. HESCHEL, GOD IN SEARCH OF MAN: A PHILOSOPHY OF JUDAISM (1955); CARL JUNG, MODERN MAN IN SEARCH OF A SOUL (1947); ELLEN J. LANGER, MINDFULNESS (1989); FAZLUR RAHMAN, ISLAM (2d ed., 1979).

¹² John Paul Lederach believes that each culture is a "seedbed" for eliciting multiple approaches to conflict resolution. These approaches are imbedded in and are unique to each culture. Therefore, these approaches should be used to create conflict resolution models rather than merely to acknowledge cultural differences when using mediation. See JOHN P LEDERACH, BEYOND PRESCRIPTION: NEW LENSES FOR CONFLICT RESOLUTION TRAINING ACROSS CULTURES (Institute of Peace and Conflict Studies Working Draft, 1992). I find that Lederach's respect for cultural autonomy in his model may require the mediator to put aside the core values of mediation.

Baruch Bush believes that the core concept of mediation is self-empowerment and recognition of the other. Bush views values along a continuum within a hierarchy. His core concept is incompatible with concerns for justice or the instrumental values such as efficiency. See Baruch Bush, Efficiency and Protection, or Empowerment and Recognition?: The Mediator's Role and Ethical Standards in Mediation, 41 FLA. L. REV 253 (1989).

I believe that cultural autonomy, self-empowerment and recognition of the other, and justice concerns all mutually co-exist in a non-hierarchical framework. Each core value influences and implements the other. One value neither can nor should be given predominant status. Rather, justice, for example, may require a mediator to withdraw in a particular case in order to honor the
There are four core values that I identify as underlying mediation. First, mediation should promote the self-actualization or self-determination of the individual. Second, the individual should take ownership or responsibility for her own actions. The individual should become the actor, not the victim, in deciding what should happen in the future. Third, the individual has the responsibility to understand the experience of the others in the dispute. Fourth, the individual has the responsibility to act in ways which acknowledge the previous understanding.

These four core values produce three applied values which should also influence the mediator's reflection on her practice. First, the subjective and individualized experience of justice by each disputant contributes to the conclusion that the process taking place is mediation. Second, the subjective and individualized experience of fairness by each disputant contributes to the conclusion that the process taking place is mediation. Finally, as a result of all the foregoing core and applied values, the process should not reinforce practices which subordinate human life if we are to conclude that mediation is taking place. Therefore, if the process permits or aggravates the subjective experience of values of cultural diversity and self-empowerment and recognition of the other. See generally Blaustone, Training the Modern Lawyer supra note 5.

13. This discussion of mediation predisposes basic understanding of conflict analysis. A brief summary of conflict theory is provided in the following paragraphs.

Morton Deutsch views conflict either as a constructive or deconstructive process. Cooperation is inducive of constructive conflict and competition is inducive of destructive conflict. Conflict should not be avoided or suppressed because it provides valuable individual and social functions. The goal is to create conditions that lead to constructive management of conflict. See MORTON DEUTSCH, DISTRIBUTIVE JUSTICE: A SOCIAL-PSYCHOLOGICAL PERSPECTIVE (1985). Conflict is neither inherently good nor bad. Rather, the management of conflict may be handled well or poorly. See RONALD S. KRAYBILL, REPAIRING THE BREACH: MINISTERING IN COMMUNITY CONFLICT (1981).

I posit that cooperation and competition also possess characteristics which lead to cooperation being inducive of constructive conflict and competition being inducive of constructive conflict. This position is supported by the work of GERALD WILLIAMS, LEGAL NEGOTIATION AND SETTLEMENT (1983).

Louis Kriesberg views conflict from a sociological perspective where a conflict progresses through four stages. The first stage is the underlying basis for the conflict. The second stage is the emergence or awareness of the conflict and the means used during the conflict. The third stage is the escalation or de-escalation of the conflict. The fourth stage is the termination of conflict. Sociological factors that shape conflict include: inter-group relations, goals, resource management, power and projected possible outcomes. Improved communication de-escalates conflict. Ethical concerns regarding justice influence whether conflict should be de-escalated. Louis Kriesberg, Social Conflict Theories and Conflict Resolution, PEACE & CHANGE, Summer 1982, at 3.

Paul Wehr theorizes conflict theory at both the micro level and the macro level. He puts forth different models to understand both the characteristics and dynamics of conflict. He presents a number of analytical frameworks and several basic propositions for the origins and management of conflict by reference to the literature across disciplines. He discusses conflict containment and reframing styles of waging nonviolent conflict. See PAUL WEHR, CONFLICT REGULATION (1979).

14. These four core values promote accountability to both self and to others.
discrimination or institutionalized bias such as racism, sexism, homophobia, classism, ageism or bias against any historically subordinated class, the process is not mediation, in spite of the genuine intent of the mediator or the design of the mediation program. An inherently discriminatory process does not encourage accountability to self and to the others in the dispute and, thus, does not reflect the core values underlying mediation.

I posit all the foregoing premises as true across cultures, races and gender. The universality of these core and applied values does not erase or discount the existence of different cultural approaches to problem-solving or diversity. Mediation in our legal system and dominant culture arose from cross-cultural origins. These core values exist even though the process of mediation varies and evolves in its particular form within different contexts.

This myth also raises the issue of mindless adoption of any one particular theoretical perspective on dispute resolution among three different world views. The three targeted dispute resolution theoretical perspectives are: peacemaking as the primary objective; rights advocacy as the primary objective; and process neutrality as the primary objective.

15. See supra note 9.
16. Id.
17. I provide in the following paragraphs the scholarly deconstruction for each of these dispute resolution perspectives.

The theoretical perspective of peacemaking as the primary objective, or the voice of Peace Monger in my myth, is not based upon a complete avoidance of conflict. Rather, this perspective is based upon valuing peace as the primary and ultimate goal to be obtained in resolving conflict. Valuing peace in this manner can result in an implicit favoring of peace over conflict, thus affecting how the particular conflict is resolved.

This theoretical perspective reflects the mindless adoption of valuing peace in the manner described above which is to be distinguished from the critical commentary existing within the scholarship of peace studies. I now identify core premises in the scholarship of peace studies which contain the dangers of Peace Monger when not critically evaluated in each new situation. Johan Galtung believes that the absence of violence creates possibilities for social justice. See Johan Galtung, Violence and Peace, in A READER IN PEACE STUDIES 9 (Paul Smoker et al. eds., 1990). Betty Reardon argues from a feminist perspective that social attitudes toward peace influence the opportunities for individual transformation. Such change reduces vulnerability and increases security. See Betty Reardon, Toward a Paradigm of Peace, in PEACE: MEANINGS, POLITICS, STRATEGIES 15 (Linda Renne Forcey ed., 1989); Betty Reardon, A Feminist Perspective on World Constitutional Order in THE CONSTITUTIONAL FOUNDATIONS OF WORLD PEACE 227 (Richard A. Falk et al. eds., 1993). Samuel S. Kim asserts that "[n]onviolence is and becomes both the end and the means of peace politics." Samuel S. Kim, In Search of Global Constitutionalism, in THE CONSTITUTIONAL FOUNDATIONS OF WORLD PEACE, supra, at 55, 78. Duane L. Cady argues that war and violent conflict, should be replaced by civilian nonviolent defense. He explores the examples of peaceful resistance against the Nazis in Denmark and Belgium. See DUANE L. CADY, FROM WARISM TO PACIFISM: A MORAL CONTINUUM (1989). Birgit Brock-Utne argues that women should further analyze and research nonviolent alternatives to conflict, including rejection of the military as a valid institution for resolving conflicts. Instead, women should embrace pacifism. See BIRGIT BROCK-UTNE, EDUCATING FOR PEACE: A FEMINIST PERSPECTIVE (1985).
To some extent, the win/win model of principled negotiation, when adopted mindlessly, implicates the same dangers voiced by Peace Monger or the theoretical perspective of peace-making as the primary objective. Roger Fisher and William Ury set forth principled negotiation as an alternative to either hard or soft negotiation. The purpose of principled negotiation is to be hard on the merits and soft on the people. Parties negotiating conflict should look for mutual gains, to dovetail differences, and seek out shared interests so that all parties are satisfied and the relationship strengthened. See Roger Fisher et al., Getting to Yes: Negotiating Agreement Without Giving In (2d ed., 1991). Similarly, William L. Ury, Jeanne M. Brett, and Stephen B. Goldberg echo principled negotiation theory by advocating problem solving approaches centered on interests rather than on rights or power. William L. Ury et al., Getting Disputes Resolved: Designing Systems to Cut the Costs of Conflict (1988).

The methods of principled negotiation, when mindlessly adopted, can result in a "peace at any cost" mentality, a peace which does not respond to fundamental needs, a peace which inhibits growth. This type of peace controls the subjective experience of injustice by creating the illusion that avoiding conflict is good because both sides benefit.


Using social psychology theory as authority, Delgado concludes that the risk of prejudice in mediation is high because bias is environmental, advocates do not handle confrontation, parties may have differing socio-economic status, and the matter is personal. See generally Delgado, Fairness and Formality, supra. This argument is not individual-specific. Rather, it is made on a class-wide basis. The authors suggest that mediation should be banned entirely when all of the above negative qualities are present, making the danger of bias too great. Id. at 1404. From my perspective, Delgado's view perpetuates bias because a stranger is deciding for all members of a class that they all have the same characteristics and that they, as a group, are not capable of using mediation. Under Delgado's view, a paternalistic figure from afar would, without regard to the specifics of a particular case, determine what is best for a class of people. I advocate that responsible consideration of these negative qualities requires that the specifics of a particular case inform the decision to mediate. See Blaustone, Training the Modern Lawyer supra note 5, at 1344-51.

Delgado's thesis does not rely upon any empirical evidence comparing outcomes in mediation and adjudication. However, one such quantitative study testing Delgado's thesis has recently been completed. The MetroCourt Project Final Report is carefully and scientifically structured.
Professor Michele Hermann, University of New Mexico School of Law, is one of the principle researchers. Hermann's research findings show that minority claimants fare less well monetarily in mediation than adjudication. However, minority claimants expressed more satisfaction with mediation than adjudication. Gender did not affect monetary outcome for women claimants in either mediation or adjudication. However, women reported greater satisfaction with adjudication rather than mediation. White women were the most dissatisfied with the mediation process. Michele Hermann, The MetroCourt Project Final Report (1993) (grant from the National Institute for Dispute Resolution and the Statistical Analysis Center).

Ian Ayres' study also lends support to Delgado's thesis. He statistically documents the adverse effects of institutionalized bias in retail car negotiations. See Ian Ayres, Fair Driving: Gender and Race Discrimination in Retail Car Negotiations, 104 Harv. L. Rev. 817 (1991). The facts of the study deal with face-to-face negotiations rather than mediation; nonetheless, the study confirms the adverse effects of race and gender bias in informal and unmonitored transactions.

Trina Grillo examines the California Mandatory Custody Mediation Program and other community programs and identifies the presence of disturbing forms of race and gender bias in the provision of process. See Grillo, supra. She identifies faulty program design which has since undergone some revision. Moreover, she exposes the prevalence of ineptitudes and unchecked biases of individual mediators in the California program.

Laurie Leitch sets forth a feminist view of mediation and identifies dangers in the process similar to those Trina Grillo describes. See M. Laurie Leitch, The Politics of Compromise: A Feminist Perspectives on Mediation, 1986 Mediation Q. 163, 168-73. She advocates that mediators be sensitized to the larger social, economic and political context of family mediation. In this manner, Leitch advocates for the type of mediator exemplified by the three Bridge Makers in this myth. See also Laurie Woods, Mediation: A Backlash to Women's Progress on Family Law Issues, 19 CLEARINGHOUSE REV. 431 (1985). The consequence of bias cannot be minimized because the multiple burdens of bias create a cumulative effect which is greater than the sum of each of the specific instances and individual experiences. See Kimberlé Crenshaw, Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics, 1989 U. Chi. Legal Found. 139, 152-57

The theoretical perspective of process neutrality as the primary objective, or the voice of Neutral Guru in my myth, is not based upon devotion to the ideal of neutrality of process. Rather, it is based upon a mindless inherent faith that neutral process will successfully resolve conflict. Roger Fisher and William Ury view neutrality of process as a means to successful settlement. Principled negotiation yields situations of mutual gains based on interests, not positions. Principled negotiation leads to win/win situations even if the other side wants to use positional bargaining tactics because of the likelihood of benefit or gain for each party. See Fisher et al., supra; William L. Ury et al., supra.

In contrast, Lawrence Susskind and Connie Ozawa do not view neutrality of process in this way. They believe that mediators should operate from a public interest perspective in an effort to influence the outcome. This is necessary because most mediations do not involve all the interested parties, thus creating the danger of unsatisfactory settlement. Neutrality is assuring that all interested parties receive fair notice and a say in the settlement. Lawrence Susskind & Connie Ozawa, Mediated Negotiation in the Public Sector 27 Am. Behav. Sci. 255-79 (1983).

Baruch Bush also opposes the theoretical perspective of neutrality of process as the primary objective. He asserts that self-empowerment and recognition of the other are the principles underlying values in mediation. Neutrality of process is used to provide parties an opportunity for self-determination and autonomy. Therefore, it is not the mediator's responsibility to ensure that agreements are fair or just. Bush, supra note 12, at 267-72.
The Bridge Makers in this myth, mediators, provide the critical response to the three different dispute resolution perspectives. The voice of each Bridge Maker represents both diversity and competent mediation practice.18

The challenge in addressing diversity, justice and peace in dispute resolution is to make choices which result from an integrated perspective on difference and togetherness.19 The character of each Bridge Maker in this myth incorporates critical thinking and issues of mediation performance standards.20 These two

Like Bush, I believe mediation is an empowerment process for informed decision-making. However, unlike Bush, I believe that a concern for justice must be present for true empowerment to occur. The mediator must respect the parties' choices when those choices are informed and freely made. But the mediator also must ensure that the parties are fully informed and not intimidated or coerced in the process. The mediator has the affirmative responsibility to address power imbalances or other abuses of process. Blaustone, Training the Modern Lawyer supra note 5, at 1322-27


18. These Bridge Makers, or mediators, are reflective practitioners that conform to Schon's model. See Schon, supra note 11.

19. There is a small but growing trend to produce dispute resolution scholarship that discusses diversity and multiculturalism. Isabelle Gunning, Diversity and Culture in Mediation (unpublished manuscript, on file with author); SUSAN B. GOLDSTEIN, CONSTRUCTION AND VALIDATION OF A CONFLICT MANAGEMENT INVENTORY: A CROSS-CULTURALLY ORIENTED MEASURE OF CONFLICT MANAGEMENT STYLE (Program on Conflict Resolution Working Paper, 1990); P.H. GULLIVER, DISPUTES AND NEGOTIATIONS: A CROSS-CULTURAL PERSPECTIVE (1979); LEDERACH, supra note 12; Wallace Warfield, Public Policy Conflict Resolution: The Nexus Between Culture and Process, in CONFLICT RESOLUTION THEORY AND PRACTICE 176 (Dennis J.D. Sandole & Hugo van der Merwe eds., 1993); Jan Jung-Min Sunoo, Some Guidelines for Mediators of Intercultural Disputes, NEGOTIATION J. 383 (1990); Mara R. Volpe & Roger Witherspoon, Mediation and Cultural Diversity on College Campuses, 9 MEDIATION Q. 341 (1992); Victor D. Wall, Jr. & Marcia L. Dewhurst, Mediator Gender Communication Differences in Resolved and Unresolved Mediations, 9 MEDIATION Q. 63 (1991); Jan Jung-Min Sunoo, Conflict Resolution in the African American and Korean American Communities: New Problems or Just the Last Immigrants Doing Business in the Ghetto? (unpublished manuscript, on file with author); John Paul Lederach, Mediation in North America: An Examination of the Profession's Cultural Premises (1985) (unpublished manuscript, on file with author). See also Sally Engle Merry, Culture, Power, and the Discourse of Law, 37 N.Y.L. SCH. L. REV 209 (1992).

20. I do not analyze human functioning within the traditional behavior modes suggested in the dichotomies of: empathy versus intellect, will versus reason, cognition versus affection, perception versus analysis, rationality versus irrationality. See generally Blaustone, To Be of Service, supra note 5.

Christine B. Harrington and Janet Rifkin comprehensively state a series of dualisms in legal theory in The Gender Organization of Mediation: Implications for the Feminization of Legal Practice (Institute for Legal Studies Working Papers Series 4 No. 2, 1989). Further, they discuss the gender-based hierarchy which privileges the masculine traits in these dualisms. See also Carrie Menkel-Meadow, Portia in a Different Voice: Speculations on a Women's Lawyer's Process, 1
aspects always face the competent mediator regardless of the cultural context. The Bridge Makers’ voices do not simply seek to characterize cultural characteristics. Nevertheless, in giving voice to diversity in mythic story telling, the risk is ever-present that unintended cultural stereotyping can occur despite my conscious effort to do otherwise. Mythic figures are intended to be symbolic, or larger than life, in order to teach important lessons.

The worst result of all would be the failure on my part to attempt positive portrayal of diversity in story telling out of fear that this effort will be criticized as presumptuous and culturally insensitive. Effective resolution of conflict in our society often requires both the mediator(s) and the disputants to understand others who may be of different backgrounds, perspectives or persuasions than our own. “Building bridges,” my mythic term for mediating, requires some initiative to build understanding of potential differences.

I believe that fostering diversity in the United States requires that those among us who have been privileged by the subordination of others take active steps to forge a new understanding of the vast potential for personal growth by appreciating differences. Therefore, I took, and still take, the risk to attempt to present voices other than my own. That is the challenge for me, as a white woman, to show that someone who may be both different than me and historically held inferior to me has just as much knowledge, if not more, from which to construct the global village among us. The voices of the three Bridge Makers in this myth humanize and contextualize this perspective.

The writing of this myth is crafted for oral communication—story telling! Story telling engages the imagination of the listener solely through the power of hearing spoken words. Words are chosen, phrases selected, and sentences crafted with the intention of creating visual images within the mind of the listener. Therefore, I deliver the myth with dramatic use of my voice. This myth is not designed for analytical reading of the printed word.21 Therefore, I encourage the reader to read the myth out loud, letting all of the content flow, as though you were reading it to another.

This myth is intended to be both familiar and challenging, comfortable and disquieting. What matters is the message from experiencing the whole journey rather than isolating a reaction to one spot in the story’s road. However, you still may be provoked to stop at a given point. Please keep reading to the end! Afterward, you may return to, reflect upon, critique, or analyze any portions you wish. Note that in this Introduction I provide you with footnotes which deconstruct the scholarly literature upon which the myth is based. I urge you visit the footnotes after you read the myth out loud as instructed.


21. I intentionally use language of dispute resolution theory which is common vernacular in the field and which carries accumulated meaning from practice.
Finally, the reader should bear in mind that each voice in the myth represents aspirations or attitudes that co-exist in all of us. The voices exaggerate these aspirations or attitudes in order to achieve mythic clarity. The reflective interaction of these voices within us dictates how each of us responds to the issues that I raise. What matters to this author is the listener's reflection about future actions rather than mindless adherence to any one of the aspirations or attitudes expressed in this myth. The reader is now invited to listen to: Bridge Makers Who Face the Great Mystery.

**BRIDGE MAKERS WHO FACE THE GREAT MYSTERY**

The Great Mystery, the divine force, is in a process of deep reflection—considering whether human life should be altered—so that only mindless social creatures survive. Look—human beings have existed for a while and have had their chance. After all, it is about time to have some peace and quiet, maybe empty peace, but some peace and quiet on earth. The clamor of disharmony has risen to the point of making the Great Mystery weary. The Great Mystery thinks a new ice age would be pleasant indeed! Yes—with a new Ice Age the earth would become peaceful and quiet. The Great Mystery is seriously attracted to this option.

The Great Mystery has a profound appreciation for conflict. Conflict was, and continues to be, the source of creation. But—the Great Mystery is dispirited by the inability of humans to handle conflict effectively. The Great Mystery anticipated that there would be sensible wars and sensible peace in the development of the human race. But what the Great Mystery has observed with the human species is senseless war and senseless peace.

The Great Mystery does not want to make any premature judgments about humankind's destiny because in immortal time, humans are a relatively new species.

The Great Mystery therefore decides to convene a High Council of the very best Bridge Makers of humankind to discuss the voices of the predominant world winds of conflict maintenance that are encircling the globe. The Great Mystery believes that listening to the deliberations of the High Council will be the best way to consider the fate of humankind.

The Great Mystery beckons three Bridge Makers to serve on the High Council—they are summoned to appear at the eternal fire, which is where the proceedings are to be held. The eternal fire is found at the center which is where fullness and emptiness merge into each other. The journey is a long one for any mortal to make.

Eva, Edwards and Eto arrive and prepare themselves to engage in the unknown and to face the unknowable. Eva, Edwards and Eto know they have been chosen because of their accumulated experience and knowledge as trusted Bridge Makers among the human race. They each now prepare their internal peace as they emerge from the chaos of being summoned by the Great Mystery to confront this most overwhelming assignment.
The Great Mystery also decrees that three of the world winds of conflict maintenance prepare their voices. Each will give its best argument to the High Council as to why that world wind is the best approach for humankind to follow. The three world winds chosen by the Great Mystery are: Peace Monger, Rights Warrior and Neutral Guru.

We are now all gathered at the eternal fire. All present feel breathless anticipation at the overpowering presence of the Great Mystery. The Great Mystery greets all living creatures and voices who have gathered. With great solemnity, the Great Mystery explains that forces of creation also engage in contemplative reflection, especially before changing the course of a world’s development. Yes—there are many other worlds, not just earth, but that is a story for another day.

So—the Great Mystery continues, saying that it will use the High Council’s discussion to determine whether now is the time for the coming of a new Ice Age.

The three world winds are quite anxious because a new Ice Age would turn their voices into frozen silence. The three Bridge Makers are anxious because they know they may utter the last human words that lead to a new Ice Age and the loss of human life as we know it.

Peace Monger swirls around the podium—creating brilliant sharp rainbows with diamond bright colors for all to enjoy watching. The Sky is completely filled with rainbows of different hues and sizes. Each rainbow is so spectacular that it catches and keeps your attention. All are mesmerized by this joyful feast of colors. The smell of celebration is in the air. Peace Monger now organizes its voice as the first one to speak:

"I am the right way—Follow me onto the correct path of conflict resolution. I stand for peace at all costs. The evil is conflict itself. Although every Bridge Maker gives lip service to handling conflict, you all know you cannot stand conflict! You cannot stand to be in conflict! You cannot stand to be near conflict! Humans do not have the stomach for conflict!! Humans best handle conflict by avoiding it!! And Bridge Makers are no exception!!"

Peace Monger continues: "Any reasonable mind and feeling heart believes that accommodation is definitely the best way. No principle, value or belief should be held more cherished than peace itself. Therefore, nothing should be cherished more than the peace process itself. Conflict resolution allows humankind to develop rather than decay in the turmoil of conflict. Surely—the search for a peaceful solution is what drives each of you to be a Bridge Maker. You value a resolution to conflict so much that you will—as you humans say—allow others to walk on you and over you!!! Walking on each other is worth it if it encourages the human potential for peace."

"I support my argument by offering the example of some noted family Bridge Makers who hold accommodation so dear that they view the concerns of women who resist visitation privileges for fathers as ‘emotional’ concerns. Although these concerns should be acknowledged, they should also be left in history—in order to encourage what is best for the child, the father and the family. These family Bridge Makers do this because they are filled with vision that peace will happen in human families only if they settle all their affairs. These Bridge
Makers believe this is the only way to take responsibility for oneself and to be responsible to others in conflict."

"Honor these values as supreme, and you honor the Great Mystery. Honor these values, and you will create good sensible peace on earth and avoid the coming of the New Ice Age."

Eva is wrestling with her anger and impatience at this world wind—Peace Monger. She says to herself: "I have heard this voice before! Surely, the Great Mystery cannot believe this world wind kicks up much dirt into the eyes of Bridge Makers. Indeed! He is unfamiliar with many family Bridge Makers who are quite different."

Eva goes to the podium and speaks: "I do not make bridges among peoples just because I like the work of building bridges. I do not think bridge making—in and of itself—matters above all else that I am and that I hold dear in life. In my culture, among humans, we believe that in our emotions lie much knowledge. We respect our hearts, honoring nuestra corazonas, because we use our hearts to help understand each other's experience. As a Latina Bridge Maker, I cannot dismiss the feelings of anyone, woman or man. The feelings of women and men often reveal important truths."

"I respect the teachings of bridge making which say we should honor feelings and vent emotions. But I do not believe we do this in order to get rid of feelings or to get over them. Rather, we learn knowledge from feelings. I cannot separate emotion from reason. This is how I give meaning to life. To ignore feelings is to ignore the person."

"Familia," family, is all important to us. Perhaps more deeply than you, Peace Monger, can ever appreciate. Harmonia, harmony, is important in honoring the family. But Harmonia does not allow me to ignore women's experience."

"Peace Monger, in your example, you make assumptions about living together as familia with which I will make no peace. I am Lesbian—I fully accept who I am as one of the Great Mystery's beloved living creatures. I have endless capacity to love, nurture and build familia. I enjoy familia with another woman, and we parent together two beautiful boys. You assume familia can only be a certain way."

"I will never dismiss women's nor men's knowledge as emotional. Your valid example of resistance to child visitation is a serious issue for both parents—no matter what gender they are. Rather, we must examine together the reasons for the resistance."

"Peace Monger, I like many of your words. But I do not distort them the way you do!"

As Eva spoke, Peace Monger's gale forces move away from the podium and ever so slightly lessen in intensity.

The world wind Rights Warrior is now engulfing the podium. For a while Rights Warrior puts on a powerful display of tornado force. This tornado force gives off deafening sounds of whistling, crashing winds. Eva, Edwards and Eto are holding their hands over their ears to lessen the pain of the noise. They each are trembling in pain.

The Great Mystery grows impatient with this display of intimidation. The Great Mystery orders the noise stopped. The Great Mystery decrees that Rights
Warrior should speak its voice, present its argument, or it will be held in contempt and have its winds silenced forever! Rights Warrior instantly quiets it winds and begins to speak: 

"I am the right way! Follow me onto the correct path of conflict resolution. I stand for justice, equality and fairness. I protect those humans historically exploited by the powerful elites. I am the conduit for establishing and maintaining the public peace. I level the playing field for all humans who are in the midst of fighting one another."

"I symbolize law. I provide the standards by which all humans are expected to conform their behavior and end their conflicts. Bridge Makers of high repute look to me to validate social injustice and to represent fully the interests of historically exploited humans. Bridge Makers must recognize that society's interests outweigh those of the individual. The individual should not be allowed to make private peace where public harm has been done. Private peace perpetuates discrimination and prejudice. The individual should not be allowed to make private peace where the harm suffered is the result of discrimination or prejudice."

"I possess overwhelming and conclusive proof for my argument. Bridge Makers, you must condemn without hesitation the actions of injustice. I now describe only one of countless examples of injustice in your world. No living thing can tolerate the failure of a white employer to hire, because of fear and prejudice, a young African American man from South Central Los Angeles who is the most qualified for the job. Such behavior by the employer is an outrage. This is a matter for public censure and ridicule. This young man should be fully supported by all the power of the law in denouncing this employer and his practices. By himself, privately, this young African American man should not bargain away injustice. If he does, the discrimination against him will continue, and the public wrong will remain invisible."

"Private peace compromises justice and fairness. Adversarial justice prevents bias and prejudice from controlling the outcome. The Great Mystery knows I stand for sensible wars and sensible peace. Conflict in an unfair society is best managed by using extreme argument before the public in order to uphold the principles involved. As my supreme proof, I offer the fact that the Great Mystery itself—in its ever knowing wisdom—called today for this tribunal—the High Council—as the best way to consider your fate. Take note, Bridge Makers, of the format for this meeting of the High Council! The Great Mystery did not request a facilitated discussion by Peace Monger!"

"Honor my values! Place them as supreme, and you honor the Great Mystery and avoid the coming of the New Ice Age. I rest my case!"

And with these words, Rights Warrior left the podium and encircled the Eternal Flame. Rights Warrior swirled itself into a fit of righteous fury and fanned the flames to new intensity. Eva, Edwards and Eto become uncomfortably hot!

In the intense heat and after long moments of silence, Edwards speaks:

"I am a humble and proud Bridge Maker. My humankind has always been invisible in the land of my birth. My pain has always been apparent. I have always lived in a society blind to my humankind, except for my color. My blackness is all that fills society’s vision, and color is all that is seen of me!! In
every other sense, the culture of all that I am and of all that I come from is denied to me."

"The Great Mystery did not give me a pair of eyes alive with light. Yet, as a blind man, I see so much more than most of the Great Mystery’s creatures. I am a blind African American man. And, Rights Warrior, I have no need of you to show me where lies my battles!"

"I have no quarrel with you regarding the values you represent. In fact, I cherish justice, equality and fairness more deeply than you can comprehend. This is because I can never count on their presence when I need them. However, I will make no peace with how you translate these values to me and my others! In your example, your arrogance is hiding in the robes of justice. I do not accept your argument."

Edwards continues: "It must always be up to that young African American man, and no one else, to decide whether private justice is right for him. Why should he not be given the same choice to handle his grievance informally if he believes that is best for him? Who are you, Rights Warrior, to think that you protect rights by denying the freedom of choice to those who have always been denied the choices of the majority?"

"The Great Mystery summoned me here because I am a Bridge Maker among all peoples of humankind. I offer my spirit, my soul and my vision to help others find the light of hope in the darkness of despair. How can you prohibit this opportunity to whole classes of people?"

"Yes! Justice must have a public stage! But justice also needs to have a private sanctuary! If my people are denied the opportunity to walk over bridges—then my spirit is crushed! And from deep sorrow—I will trumpet the Great Mystery’s coming of the New Ice Age!"

Rights Warrior had disappeared, it was no longer encircling the Eternal Flame. Rumor has it that it had to attend to other important business. Rights Warrior is in much demand elsewhere as the self-appointed champion of all issues facing humankind. Rights Warrior does not have one moment to waste on those who do not wish that it speak for them!

All remaining are now relishing the few moments of silence, knowing the Great Mystery is meditating upon what has been said thus far.

When—bright blinding white light encircles the podium!! It is the world wind Neutral Guru displaying its forcefulness. The white light is so painfully bright that Eva and Eto must cover their eyes with their hands. They cry out for relief! Edwards also uses his hands to cover the eyes of Eva and Eto.

The Great Mystery is startled from its deep reflective slumber. With parental annoyance, the Great Mystery commands that grandstanding will no longer be tolerated in the High Council.

Neutral Guru’s response is to gradually lessen its blinding light—bit by bit—making all present feel incremental relief from the pain. Neutral Guru expects to receive expressions of gratitude from those present. Neutral Guru expects to hear high praise for its response to the Bridge Makers’ pain. It is now providing partial relief of their discomfort.
Amazing! Neutral Guru thinks that the Bridge Makers will not remember that it was the source of their pain in the first place. The Great Mystery makes audible noises of frustration and impatience.

Finally, Neutral Guru speaks: “I am the right way! Follow me on to the correct path of conflict resolution! I am win/win. Win/win is all of me! And win/win should be all of you! I am process incarnate. Process is all that matters. If you embrace me fully, profess full devotion to me, use my process exclusively, then all concerns about right versus wrong, just versus unjust, and moral versus immoral will vanish!”

“I offer the only way to peace. I offer the only way to avoid the coming of the New Ice Age. I offer a process which, when you embrace it, you will come to the realization that all principles are servants to my process.”

“Bridge Makers! Use my skills! Then you will know that what matters above all else in the cosmos of all universes is simply to bring living creatures together and then to administer my process to them. Then—as the miracle that I am—no matter who the living creatures are—peace will blossom forth!! A peace above all else!! A peace that dominates! A peace that erases difference! A peace that erases uniqueness! A peace that makes irrelevant adherence to deeply held values and principles! It matters not what the controversy is. It may be violence. It may be acts of hatred. It may be acts of the powerful over the powerless. It may be a small matter of a simple misunderstanding. In the end, substance does not matter, the process does!”

“As the Guru that I am, the Great Mystery knows full well that I am its true messenger spreading the universal truths of the Great Mystery. Follow me and you will dwell in higher consciousness! All humans will become masters of conflict by arising above conflict to dwell in the sanctity of process—to the great delight of the Great Mystery! Follow me, and share in my holiness!”

Eto sits with complete respect and courtesy—for this is her way. Respect for the other is her starting point for co-existence with any other living creature—even a world wind!

Eto ponders privately inside herself: “I must speak, I must dissent, and I must do so out of respect to all present. For it is in the collective, and it is in the relationships among us, that make us a whole. I am only one part of the whole. Neutral Guru is only one part of the whole. We both exist as part of something so much larger than ourselves.”

Eto is a Chinese American Bridge Maker. She has seen more years than both Eva and Edwards combined. She is in the twilight of her service to humankind. She rises very slowly to speak: “Venerable Great Mystery, all honorable esteemed Bridge Makers and world winds, your holy Neutral Guru—thank you for giving of yourself to us. I now offer what I have to give to all of you.”

“I am but one Bridge Maker, given to work rather than to words. But the Great Mystery has summoned me to serve on this High Council. Neutral Guru, you are influential and give solace to many among us. My people teach that we should never offend any being in our presence. I therefore say with great respect that your way cannot be the way for my people and our ancestors. We attach value to every breath of life. We find meaning by gazing at the branches of trees as well as in our acts of fortune and misfortune.”
"We cannot honor your process because it erases our meaning. We cannot erase difference. We cannot abandon our values. We cannot rise above our concerns. We cannot be torn from the legacy of our ancestors. You ask us to act without honor. You ask us to accept outcomes unconditionally which may be evil or may violate our sacred beliefs because you tell us your process is holy."

"We pray that you will come to know the righteousness of substance. We pray that you will come to know the joy of being true to deeply held values. We pray that you will come to know the fulfillment of standing up against the great tides of evil and tyranny. We pray that you will come to know the satisfaction of finding the courage to forgo peace until it is right to have peace."

Eto concludes by saying: "Neutral Guru, your light is all encompassing, but true enlightenment is understanding that values make bridges that endure over time. Honoring the values of all involved peoples actually makes the bridges among peoples grow stronger. They are the type of bridges that honor our legacy and support the weight of those who cross over them now. These are the bridges that are designed to foster cross-overs from both directions. These are the bridges that will connect all humankind."

The white light of Neutral Guru has become dim. Neutral Guru announces that it must depart to carry forth the Great Mystery’s teachings on the importance of devotion to process. Upon hearing this, the Great Mystery gives out a thunderous laugh! The Great Mystery then releases Neutral Guru to again encircle the globe along with all the other world winds.

Eva, Edwards and Eto are now alone with the Great Mystery. The Bridge Makers begin to shake uncontrollably as the air surrounding them grows colder and colder. They each think of their loved ones and of the bridges they have built over time. Each wants to continue tomorrow into a new yesterday.

The Great Mystery, with icy cold voice, announces that it still yearns for peace and quiet. Indeed, the idea of the coming of a New Ice Age is still quite attractive. Nevertheless, Great Mystery continues, it has found some sense in what each Bridge Maker has said. Great Mystery says that it will make its decision very soon! In the meantime, it admonishes all who are in hearing range of its voice that no act will go unnoticed while it continues to ponder the fate of the human race.