
Manila Women's Forum

A Network of Women Professionals

July 2007

Resolving Conflicts Through Mediation: A Transformational Experience

By Jill Gale de Villa



MWF Chair Lisa Lumbao and Anabelle Abaya

On 18 June Anabelle (“Belle”) Abaya treated us to an amazing account of her involvement in mediation and how it can both relieve conflict and transform people involved in it.

She also has an equally incredible background—with degrees from Tufts, Harvard, and the University of Massachusetts, and experience in business, politics, media, and now mediation. She was a spokesperson for President Ramos before taking up conflict mediation at U Mass, teaching mediation for the US State Department, then returning to the Philippines to set up The Conflict Resolution Group Foundation, a nonstock, nonprofit organization dedicated to teaching mediation and resolving conflict. She has worked with many Philippine government departments to teach their staff how to resolve conflict situations, and trained the first 400 mediators to work in the courts and many government departments.

Belle noted that backlogs in Philippine courts are severe—with an average 15-year waiting period to solve disputes that are not of a criminal nature, and up to twice as long to rule on some criminal cases. Because bouncing a check is a criminal offense (“estafa”), the court system is clogged with such cases. Belle noted that the courts should be the last resort, after mediation and arbitration fail. She noted that the Philippines has
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NEXT MWF MEETING ■ **When:** 6:30 p.m. Monday 2007 July 23.

What: Pamposh Dhar will talk about Reiki. Reiki is an alternative healing technique in which the practitioner channels life-enhancing energy to another person to remove blockages that hinder good health and spiritual growth. **Where:** Jo Edes’ home, 5 Kawayan Rd, North Forbes, Makati.

Bring: Something to share for the potluck dinner. **August meeting:** Monday, 2007 August 20.

Mother's Day

From the e-mail circuit: Someone was recently knocking Mother's Day as yet another silly commercial invention when she received an email about the original idea, just immediately after the American Civil War. Here's the historical note.



Julia Ward Howe

“Mother's Day really was in its origin an anti-war day, an anti-war statement. Julia Ward Howe...created Mother's Day as a call for women all over the world, to come together, and create ways of protesting war, of making a kind of alternate government that could finally do away with war as an acceptable way of solving conflict.”

— Gloria Steinem

Julia Ward Howe (May 27, 1819 - October 17, 1910) was a prominent American abolitionist, social activist, and poet. She is most famous as the author of “The Battle Hymn of the Republic,” which was set to William Steffe's already-existing music and quickly became one of the most popular songs of the Union during the American Civil War.

Arise then, women of this day! Arise all women who have hearts, whether your baptism be of water or of tears!” So begins the original Mother's Day proclamation of 1870, written by Julia Ward Howe who, as an anti-slavery activist, also authored “The Battle Hymn of the Republic” in 1862.

In a new video by Robert Greenwald and Brave New Films, in collaboration with CODEPINK, Gloria Steinem explains the original intent behind Ward Howe's Mother's Day idea:

“Mother's Day really was in its origin an anti-war day, an anti-war statement. Julia Ward Howe was sickened by what had happened during the Civil War—the loss of life, the carnage. And she created Mother's Day as a call for women all over the world, to come together, and create ways of protesting war, of making a kind of alternate government that could finally do away with war as an acceptable way of solving conflict.”

“Say firmly: ‘We will not have questions decided by irrelevant agencies. Our husbands shall not come to us reeking of carnage for caresses and applause. Our sons shall not be taken from us to unlearn all that we have been able to teach them of charity, mercy, and patience.’”

The video renews the original Mother's Day call for women's leadership in pursuing peace, offering support for the organization Victims No More as a concrete way to take action and help Iraqi children who have been wounded in the war.

Alfre Woodard explains her motivation to take part in the video and support this Mother's Day renewal: “My mother used to say all the time, ‘I look after people's kids, because one day I know somebody will look after my kids. I feed people's kids, because I know somebody one day will feed my kids.’ That informs a lot of who I am as a mother. That I know I'm not only parenting Mavis each of the 50 individual state campaigns are working to establish a US Department of Peace to help make her dream of a world without war a reality.”

“Why do not the mothers of mankind interfere in these matters to prevent the waste of that human life of which they alone bear and know the cost?” Ward Howe wrote in a journal entry. ■

Women as peace mediators

“We seem to have the distorted notion that men are for public concerns and women for private life—hard issues for men, soft issues for women.”

—Mary Ann M. Arnado

“If women have already been playing the role of mediators and peacemakers in their communities, why is their expertise not recognized and tapped in the official peace process? We seem to have the distorted notion that men are for public concerns and women for private life—hard issues for men, soft issues for women. Thus, if this Mindanao peace process is official, it should be left to men while the women do their usual mediation within the family and at the community level—the latter perceived as an extension of the woman's kitchen.

“This is where we miss the point. If we continue excluding women, we can never complete this peace process.... This is not a prophecy that women will bring everlasting peace to Mindanao. What is important is that we start in the right direction by bringing our sisters into this negotiation process. Then perhaps we can rebuild peace in Mindanao for ourselves, our children, and the generation to come.”

Mary Ann M. Arnado, Initiatives for International Dialogue, Mindanao People's Caucus

Grant for women mediators

In Papua New Guinea, the Jimi Women's Solidarity for Change was awarded a \$3,700 grant to allow local women mediators to intervene in the persecution of a woman who was being held hostage and tortured on allegations of witchcraft.

Mediation. Is it a good thing, for women? Not always, it seems. For example, there are concerns that mandatory mediation for family law issues “re-privatizes the family and hides women’s concerns from public view”.



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Selected and edited by
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Women, Mediation, and ADR

First, there’s ADR

Alternative dispute resolution or ADR includes dispute resolution processes and techniques that fall outside of the government judicial process.

Despite historic resistance to ADR by both parties and their advocates, ADR has gained widespread acceptance among both the general public and the legal profession in recent years. In fact, some courts now require some parties to resort to ADR of some type, usually mediation, before permitting the parties’ cases to be tried.

The rising popularity of ADR is attributed to the perception that ADR imposes fewer costs than litigation, the increasing caseload of traditional courts, a preference for confidentiality, and the desire of some parties to have greater control over the selection of the individual or individuals who will decide their dispute.

ADR is generally classified into at least three subtypes: negotiation, arbitration, and mediation.

Negotiation

In negotiation, participation is voluntary and there is no third party who facilitates the resolution process or imposes a resolution.

Arbitration

Arbitration is a simplified version of a trial involving no discovery and simplified rules of evidence. Either both sides agree on one arbitrator, or each side selects one arbitrator and the two arbitrators elect the third to comprise a panel. Arbitration hearings usually last only a few hours and the opinions are not public record. Arbitration has long been used in labor, construction, and securities regulation, but is now gaining popularity in other business disputes.

Mediation

Mediation is a voluntary and confidential way to resolve disputes without giving the decision-making power to someone else (like a judge). It involves sitting down with the other side in the dispute and a third-party who is neutral and impartial (the mediator). The mediator helps the parties identify the important issues in the dispute and decide how they can resolve it themselves. The mediator doesn’t tell them what to do, or make a judgment about who’s right and who’s wrong. Control over the outcome of the case stays with the parties.

What about competency in mediation?

There are many schools of thought regarding the basis for determining the competence of a mediator.

In some situations, parties retain mediators for the purpose of providing an evaluation of the relative strengths and weaknesses of their positions. In this case, the primary consideration for determining competence is subject-matter expertise of the issues in dispute. However, some argue that an individual who gives an opinion about the merits or value of a case does not practice true mediation, and that to do so fatally compromises the mediator’s neutrality.

In other situations, parties retain mediators to serve primarily as process experts who are expected to use their skills in working through the mediation process without offering evaluations as to the parties’ claims. In this case, competence is determined on the basis of ability to remain neutral and to move the parties through various impasse points in the dispute.

Whatever “competency” means when it comes to mediation, there’s certainly a continuing debate.

Is mediation a good thing for women?

In certain situations, no. There’s this paper by Renu Mandhane, for example, titled “The Trend Towards Mandatory Mediation: A Critical Feminist Legal Perspective”.

The paper raises concerns about the implementation of mandatory mediation, especially in cases of family law disputes that involve women experiencing abuse and violence in their families.

Not only that, “streaming family law disputes into an alternative system of dispute resolution” is, according to the paper, “contrary to the tremendous gains that feminists have had in illustrating that women’s issues, such as domestic violence, are social concerns and not individual problems.”

Renu Mandhane worked pro bono as a law student in 1999 with the Ontario Women’s Justice Network (OWJN), a project of the Metropolitan Action Committee on Violence Against Women and Children (METRAC) based in Toronto. To read the full version of her paper, try emailing info@metrac.org

Mediation by any other name

There’s such a thing as W.A.R.M., for Women’s Addiction Recovery Mediation. It’s a non-profit, counseling and referral service in Fort Erie, Ontario, Canada for women dealing with the effects of addiction in either themselves or a loved one.

Then there’s the Arts Mediation Group, co-founded by Carol Simkin, an attorney. It has a contact address in New York, New York and offers mediation services in connection with the arts and intellectual property disputes.

There’s Conflict Resolution through Mediation for Women, a “high demand three day workshop” offered by the Australian Education Union in Park-side, South Australia. Facilitated by Professor Dale Bagshaw and practicing mediators, it covers “the theory and practice of mediation as a proactive strategy in maintaining healthy workplaces”.

And there’s the Course in Legal Mediation and Community Practicum for Jewish and Arab Women, which “combines theoretical and practical learning and places women in a position of problem solving and negotiating within their own communities”.

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about 2 million cases in courts and government agencies. If each case affects 20 people, then almost half the population is somehow affected by litigation.

The problem with litigation is that it involves blaming, surrendering responsibility for decisions to the court, and continued trauma as long as the case is ongoing, and often after that. The result is usually win-lose.

Two forms of alternative dispute resolution (alternative to the courts) are mediation and arbitration.

Mediation looks for the win-win situation, is collaborative rather than coercive, and fosters openness rather than manipulation. When it succeeds, mediation not only ends conflict but often turns enemies into friends because they have come to understand what hurts and what motivates the other party. Further, as both parties determine the outcome, they are fully participating in it.

Arbitration is somewhat less participatory, as both parties agree to allow a third party to make a decision. And the courts are even less participatory, determining on the basis of law and not necessarily considering other factors the litigants may consider important.

“The loneliest woman in the world is a woman without a close woman friend.”

George Santayana

We in the audience were quite amazed when Belle informed us that the success rate with mediation is around 90%—and rattled off a huge number of statistics to support this conclusion from experience with various Philippine government departments. Obviously, if mediation were effectively integrated into the court system, it would go a long way to decrease the backlog of court cases. Belle noted that dispute resolution mechanisms should be integrated throughout each organization to create a healthy and productive working environment.

Training in mediation involves a 40-hour (5-day) course, then two weeks of practical actual experience. At this point in the MWF meeting, most of us present were ready to sign up. Unfortunately, Belle doesn't have any sign-up courses; her foundation serves corporations, offices, and other groups on request. Belle noted the course teaches self-management, anger management, how different values can affect the mediation work, negotiation skills, and nonadversarial communication. She said that most participants experience a personal transformation. Hence the name of her organization—the Center for Transformational Mediation. She does have a book with DVD that will be available soon. If you are interested in purchasing a copy, please e-mail her at belle_abaya@yahoo.com.

In terms of a career, Belle noted that mediation is a promising field, but that mediators should be ready to

work even in situations where those involved cannot afford to pay much. She noted that through her involvement in mediation she has come to look at conflict as a source of learning, rather than something to be avoided. ■

Check this out :

“We the Women: Why conflict mediation is not just a job for men” — an opinion paper produced by the HD Centre for Humanitarian Dialogue.

Manila Women’s Forum

Manila Women’s Forum (MWF) is a cross-cultural network for women. It provides opportunities to build friendships, to talk to women of various cultures, and to share information about resources. Our meetings are intended to provide intellectual stimulation and lead to personal and professional development. All women are welcome to join. The current officers are **Lisa Lumbao**, Chair, Programs, Treasurer, and Newsletter. **Cecilia Leung**, Programs. **Beulah P. Taguiwalo**, Newsletter, Website.

Cost of membership is P300 per year. Members receive a copy of the current mailing list in addition to the newsletter, which is also sent to non-members. A contribution is collected at each monthly meeting: P20 for members, and P40 for non-members. Please contact Lisa Lumbao at Tel. 813-0168, or at lumbao@mozcom.com for more information about MWF.

Visit our website – a work in progress
www.geocities.com/manilawomensforum

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