

Research on Mediator Style: A Summary and Some Research Suggestions

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Abstract

Empirical research on mediator style, after promising beginnings, has not kept pace with the significant and continuing interest of mediation practitioners in mediator stylistic behavior and thinking. In the hopes of closing the research-practice gap, we consider the practical and conceptual importance of conducting research on mediator style. We then present an overview of what is known empirically about mediator stylistic behavior, with an emphasis on the research papers in this volume. Those papers address three major issues: (a) What mediators say about their stylistic preferences; (b) the degree to which mediators show stylistically flexibility; and (c) the relative impact of mediator style on the process and outcomes of mediation. We then consider why the empirical record on mediator style is still relatively weak, and we offer suggestions for moving forward along more vigorous research lines.

As we noted in the introduction to this Special Issue, the field of mediation research, which began with so much energy and enthusiasm, has for many years been in a period of relative somnolence. The study of mediator style, which was a central theme for mediation researchers, has suffered a similar fate. We hope this Special Issue will help reverse that trend.

Our broad purpose in this concluding paper study is to provide impetus and direction for mediation researchers, particularly those interested in practice-relevant research. We begin by discussing why we should study mediator style. Here, we consider the practical and conceptual importance of research on mediator style. While the subject is generally conceded to be central to understanding mediator behavior and its impact, there are important caveats that several of our contributors have noted.

We then proceed to an overview of what is known empirically about mediator stylistic behavior, with an emphasis on the research papers in this Special Issue. Those papers address three major issues: What mediators say about their stylistic preferences, how stylistically flexible mediators are, and the relative impact of mediator style on process and outcomes.

Subsequently, we consider why the empirical record on mediator style is still relatively weak decades after its promising beginnings, and we offer suggestions for moving forward along more vigorous lines.

Why Study Mediator Style?

The propensity of practitioners to continually formulate stylistic types and subtypes (Wall & Dunne, 2012) suggests that there is something about the topic of mediator style that is intrinsically compelling for them and therefore merits attention. We can think of at least three explanations for their interest.

The first explanation is somewhat self-evident. As mediators ply their trade, they are cognizant of their own behaviors and develop concise terms to describe them (e.g., “I’m an evaluator”). Concomitantly, they read the literature in which styles are described, they chat with colleagues about their styles and those of others (e.g., “that fellow in Houston is a real tiger”). The stylistic labels that emerge serve as internal compasses for the mediators and as conduits to inform disputants, colleagues or institutions about how they mediate. And they use these labels as guides for training new mediators.

A second explanation concerns the multiple plausible objectives of the mediation role and the psychological tensions that these generate for the practitioner. The conflict or ambiguity is mainly between the task demands (notably the producing of settlements) and the relational ones (for instance, maintaining rapport). For example, the mediator may wish ardently to please the parties by respecting their autonomy, but simultaneously feel pressure to overcome their resistance to compromise. Stylistic prescriptions tend to weight these kinds of choices differently and identifying with one style or another presumably helps mediators enact their role with enhanced confidence and authority. Attending to both task and relational objectives simultaneously has been found difficult for leaders of any kind to accomplish, and many mediators appear to come down on one side or the other (Kolb & Kressel, 1994; Kressel, K., Henderson, T., Reich, W., & Cohen, C. (in press); Picard, 2004; Wood, 2004).

A third reason practitioners may focus on stylistic formulations is that ideas about style are extremely helpful in the difficult task of mediator decision-making. Stylistic prescriptions help the mediator to answer questions such as when and how should I intervene? Now that I have intervened, given the parties’ response, what should I do next? Stay quiet? Continue on the same tack? Change course? This decision-making often occurs under time constraints as well as conditions of considerable emotional volatility (in the mediator as well as the disputants). Identifying with a style assists in the decision-making task by telling the mediator what to pay attention to, narrowing the scope of acceptable intervention choices, and conserving mental energy.

On the research end, the study of mediator style is firmly embedded in the important question: Does the process work? Major service providers such as the state and federal courts, the United States Postal Service, and the Equal Employment Opportunity Commission are justifiably eager to answer the question as many taxpayer dollars are now expended on mediation and many lives are affected. Mediator stylistic preferences are presumably one of the factors that impact outcomes, and different stylistic approaches may

do so differently. As the chapters by Charkoudian and McDermott make abundantly clear, clarity about the meaning and impact of mediator style is also crucial to such important related matters as quality assurance and the ethical obligation to the consumers of mediation services.

The desire of mediation service providers to assess the effectiveness of mediation, however, does not necessarily motivate researchers to study style. There are other factors, as our three research chapters illustrate.

As McDermott makes clear, a focus on mediator style in his EEOC research was driven by his personal interest, experiences, and motivations, not by the funding agency. Initially at least, his research was an afterthought to the consumer satisfaction survey he contracted for. The EEOC agreed he could collect data on mediator style as long as he did not charge them extra! Charkoudian's research represents a more explicit interest in mediator style, but it was a highly skeptical one: As she puts it: "The research described in this article intentionally did not begin with an attempt to study certain styles. Instead, the goal was to understand if there were, in fact, patterns of behaviors or tactics that mediators tended to use together, and then to see if these patterns could accurately be tied to any commonly used term to define them." Only in the Bingham study is the focus on mediator style the organizing concept behind the research and the driving motivation of the funding agency. As she describes in fascinating detail, the USPS went through a very deliberative and extended process before deciding that the transformative style, not the facilitative one, was appropriate for its purposes. When that decision had been made, the USPS wanted empirical evidence that its chosen style was being implemented successfully.

While mediator style is clearly an important topic for practitioners and researchers, several of our contributors express caveats about the place of style in the overall mediation research agenda. For example, Kochan, McDermott, and Bingham contend that the mediator's style is only one of several important factors that determine what happens in mediation and is itself shaped by some of these factors. Bingham, for example, argues that mediation style research should be thought of as subordinate to the more important issue of research on dispute system design, of which there is very little. She argues that the system design itself "can provide or deny justice" whereas style research "goes to the quality of justice, not its existence."

As we will note later, mediator stylistic behavior is also only one important component of mediator activity. This idea is noted by McDermott and is expanded upon by Pruitt. As Pruitt points out, the mediators' tactical toolbox includes tactical choices (e.g., whether and when to caucus) as well as structural choices (e.g., when to reach out to third parties who have influence over the disputants).

What Do We Know about Mediator Style?

The research reports in this Special Issue address three important questions about mediator style: What do mediators say about their stylistic preferences? How stylistically flexible are mediators? And what is the relative impact of mediator style on process and outcomes? There are no definite answers to these questions, but the research papers in this issue provide some useful and instructive information on each of them.

What Mediators Say About their Stylistic Preferences

The preponderance of what is known about mediator style comes from self-report data. In this Special Issue, the papers by McDermott and Bingham rely exclusively on such data. As several of our authors note, this is because self-report studies generate quantifiable data of the kind that funding agencies understand and are able to afford. Bingham's account of the USPS's wish for quantifiable data and Bush and Folger's insistence that only qualitative data would provide a fair test of whether their transformative model was being implemented in the REDRESS program are particularly instructive on the wide gap that may exist between what is feasible for the researcher and what practitioners want to know.

Judging from Charkoudian's results, the familiar stylistic approaches derived from formal models of mediation (e.g., Bush & Folger, 1994; Moore, 1996; Riskin, 1996) are alive and well in the minds of practitioners and tend to divide along a settlement versus relational dimension. Based on responses to her 63-item behavioral self-report checklist, mediators could be grouped into four distinctively different clusters. At opposite ends of the stylistic spectrum were respondents who stressed either settlement and the heavy use of mediator direction (cluster A) or those who eschewed mediator pressure and emphasized the parties' autonomy to control both the process and the outcome of mediation (cluster D). Although she herself resists giving stylistic labels to these, it is evident that cluster A mediators are identifying with an evaluative set of behaviors, while cluster D mediators are identifying with behaviors associated with a more nondirective, transformative-like style. The settlement-oriented cluster A mediators constituted 19% of the sample; the transformative cluster D mediators, 22%. A large middle group of respondents (30%) appear to represent variations on these themes, with cluster B sounding like a milder version of cluster A, and cluster C a somewhat more directive version of cluster D. Charkoudian also identifies a common cluster of behaviors – that nearly all the mediators reported – which sounds like the proverbial facilitative style. Clusters A through D also represent a movement from more directive to less directive mediator stylistic emphases, another familiar theme in the mediator self-report literature (Kressel, 2006).

Charkoudian's data also indicate, however, that the stylistic labels mediators gave in response to the open-ended question, "What approach to mediation do you use?" did not relate in any clear way to their self-reports on the intervention checklist. She also notes that almost half of the mediators in her sample (44%) resisted giving any label for the approach they used — leaving the open-ended question blank — or wrote a lengthy description that could not be classified. One conclusion from these results is that while the familiar stylistic models have some influence on mediator stylistic thinking, there is more going on cognitively in the minds of mediators than is captured by stylistic labels.¹

¹The labels are not *completely* unconnected to self-described behavior, however. Thus, more than half (57%) of the mediators who labeled themselves transformative were assigned to the transformative-sounding cluster D based on their behavioral self-description on the checklist, and almost half (44%) of the mediators who labeled themselves facilitative fit into the facilitative-sounding cluster C.

More worrisome is the distinct possibility that mediator self-reports about their stylistic behaviors are not accurate reflections of what they are doing in session. There are a number of studies that suggest very strongly that this is the case (Kressel, et al., in press; Pruitt, McGillicuddy, Welton, & Fry, 1989; Wall & Chan-Serafin, 2010). The Bingham and Charkoudian research programs both wrestle with this issue.

Because they were limited to self-report data, Bingham and her colleagues found that the best they could do was confirm that the USPS specialists, charged with selecting mediators for inclusion on the national roster, did understand and enforce the transformative model and that mediators on the roster had a very good understanding of the transformative behaviors which were expected of them. In another report (Nabatchi, Bingham & Moon, 2010), mediators claimed to be using these behaviors in the mediation sessions and disputants corroborated the mediators' claims. Bingham also notes that the disputants' responses suggested that the outcomes were consistent with the transformative model (e.g., 86% of the disputants said they felt in control of the process; 93% felt they had opportunity to present their views; 96% felt the mediator was impartial). These data, of course, are only indirect evidence of a correspondence between mediator claims and actual mediator behavior. Bingham and her colleagues note as troublesome the fact that significant numbers of disputants reported mediator behaviors that were at variance with the transformative style and were more consistent with the evaluative style (e.g., 33% of employees and 20% of supervisors reported that the mediator addressed the strengths and weaknesses of the case).

Mediator stylistic flexibility

Arguments have been made that one should not expect most mediators to be able to move easily between styles, because the mediators' stylistic proclivities reflect core personal values or engage fundamental issues of professional identity (Tracy & Spradlin, 1994). A consideration of the serious limitations of working memory and the corresponding need for experts to simplify the task of pattern recognition, especially in complex, uncertain, and interactive environments (Kahneman, 2011), would also suggest that for all but the most skilled and self-reflective mediators adopting a single dominant style to guide attention and direct action is to be expected.

Nonetheless, mediators are often encouraged to be stylistically flexible on the sensible grounds that under different circumstances different, adaptive behaviors are required. It is difficult, however, to ascertain the degree to which mediators follow this advice, partly because the definition of style and of stylistic flexibility has had a variety of operational meanings. For example, in some studies, flexibility refers to the mediators' use of more than one style within a given case; in other instances, it refers to the frequency with which they use different styles in different cases.

Significant numbers of mediators are inclined to present themselves as stylistically eclectic. Perhaps the most well-known evidence is Picard's (2004) study of 88 experienced Canadian mediator/trainers. Using a combination of open-ended questions about the mediation role and five vignettes in which respondents were asked to say how they would deal with a role dilemma of some kind, Picard reports that 25% of her sample

identified with a pragmatic style, emphasizing an evaluative, directive and highly settlement-oriented approach. Another 21% of the sample was oriented toward relational goals, with a focus on helping the parties to communicate, deal with emotions, and understand each other better. However, more than half of Picard's respondents (54%) claimed a mixed approach, blending elements of both the pragmatic and relational orientations. While he does not discuss it in this Special Issue, McDermott, in another paper on his EEOC data set (McDermott & Obar, 2004) reports findings that echo those of Picard. In nearly 60% of the cases studied, mediators reported using exclusively either evaluative (25%) or facilitative (34%) behaviors. However, in the remaining 40% of cases, they reported using some blend of evaluative, facilitative, and hybrid tactics. Similar evidence for mediator self-proclaimed stylistic eclecticism has been reported by (Kressel et al., in press).

Evidence about the extent to which mediators actually switch styles within a case or between cases is scanty and mixed: There are a few observational studies that report mediators moving between styles in the same case (Golann, 2000; Silbey & Merry, 1986; Wall, Dunne & Chan-Serafin, 2011). And Kressel and Gadlin (2009) report mediators switching between two contrasting styles both within and between cases. There are other observational studies, however, that report mediator stylistic inflexibility between cases (Kolb, 1983; Kressel et al., in press; Kruk, 1998).

Charkoudian addresses the matter of stylistic flexibility in some detail, using observational data. She focuses on what she calls reflective and directive stylistic behaviors. The behaviors under each heading correlate highly with each other, but negatively with behaviors in the other cluster. Charkoudian concludes that these correlations suggest mediators are not behaving in a stylistically flexible manner.

Pruitt, in his commentary, argues that Charkoudian may be overstating the case for stylistic inflexibility and contends that her analyses indicate that some mediators in the sample were mainly facilitative (reflective), others mainly evaluative (directive), and many were both—they employed more than one style.

The impact of mediator style

All the research papers in this Special Issue report generally high user satisfaction with mediation, regardless of stylistic distinctions. This finding is in keeping with the decades of evidence on mediation's general efficacy and acceptability to users (Kressel & Pruitt, 1989; Wall & Dunne, 2012; Wissler, 2004). Our contributors also report evidence on the differential impact of the facilitative, evaluative, and transformative styles.

From his study, McDermott reports that mediators classified as using a pure facilitative style had higher user satisfaction (on seven measures of satisfaction with the mediation process and three measures of mediation outcome). Charkoudian (her study 3) measured three behavioral styles: listening, explaining, as well as directive, and reports that listening was positively associated with the parties' sense that they had been heard in a nonjudgmental way. The directive style was negatively associated with disputants' feelings that the mediator understood them and that they were able to express their thoughts. These results are consistent with other reports that disputants generally prefer facilitative approaches

over more evaluative, directive ones (Alberts, Heisterkamp & McPhee, 2005; Kressel et al., in press; Wissler, 2002).

In terms of tangible outcomes, however, the evaluative style appears to be quite productive. McDermott's results indicate that the highest and lowest financial outcomes (for the charging party) were associated with the evaluative style, whereas the facilitative style had a leveling effect on the financial outcomes. When evaluative mediation was combined with presence of counsel, evaluative mediation produced the highest outcomes for the charging party. In civil mediations revolving principally around money, Wall et al. (2011) report a similar pattern based on observed mediator stylistic behavior. Mediators classified as using directive approaches (evaluative and pressing styles) produced settlement significantly more often than mediators classified as using a more nondirective neutral style. Bercovitch and Lee (2003) report that in international conflicts, where tangible consequences may be enormous, directive tactics (e.g., proposing a particular settlement and pressing for it) have been found more likely to produce successful outcomes (e.g., cease-fire, partial settlement, full-settlement) than nondirective ones (e.g., serving as a communication go-between, arranging meetings, disclosing mediation progress).

Bingham's study also provides comparative data on the facilitative versus the transformative styles. Such studies are rare. Bingham and her colleagues collected over 81,000 user exit surveys in the 6-year period when transformative mediation was the officially approved style of the REDRESS program. These data were compared with the data collected in an earlier time period when the facilitative style was the defined approach for the program. Both employees and supervisors were highly and equally satisfied with the mediation process under the transformative style. The facilitative style also had very high satisfaction rates, though employees reported less satisfaction than supervisors. In sum, there was minimal difference in satisfaction between the two styles. Kressel et al. (in press) present less sanguine findings about the transformative style based on observational data involving the performance of a small ($n = 22$), largely experienced group of mediators dealing with a simulated roommate conflict. In that study, mediators classified as transformative or evaluative were rated less satisfactorily by the role-playing disputants and three trained observers than were mediators classified as either facilitative or diagnostic.

The differences between styles reported by the papers in this Special Issue and in the wider empirical literature are of considerable interest but must be qualified by important caveats. The number of studies is small; the measures of stylistic difference are primarily of the self-report variety; they fail to examine contextual variables that might affect stylistic impact or the nature of mediator stylistic thinking; and they do not use randomized experimental designs to make systematic stylistic comparisons.

Why So Little Progress on Mediator Style?

While the mediation literature in the past decade has addressed some of the above questions, the field in general has been rather stagnant. Why are scholars not conducting more research? There are several contributing and interrelated factors, many of which are noted by the contributors to this Special Issue.

Complexity of the Mediation Process

Mediation is difficult to study in part because it is a multi-determined, interactive, social-psychological process embedded in many different institutional settings and occurring across a wide array of conflict domains and world cultures. The mediators' decision-making about how to intervene is impacted by the conflict, culture, country, disputant behaviors, time available, the demands and expectations of outside third-parties and a host of other variables. Once the mediator takes action, the disputants immediately respond to the mediator and to each other. These responses alter the mediator's future actions and the outcome of those actions in a complex web of mutual influence. As Bingham notes, all these interdependent dynamic factors are quite difficult to understand, let alone study. And, as Charkoudian indicates, it is difficult to convey to potential funders how complex mediation is and how difficult it is to study.

Cost

Because of its complexity and the participation of many actors, mediation is expensive and time-consuming to study in the field. As McDermott emphasizes in his chapter, the recruitment of participants, the observation and recording of what has occurred in the sessions, as well as the coding and analyses of these interactions require considerable time, effort and usually funding. Admittedly, laboratory studies are somewhat less resource consuming; yet, as Bingham notes, their value is limited because real-life conditions are difficult to simulate in the laboratory.

Access Obstacles

These take a variety of forms. As Charkoudian points out, while they are in the field – devouring funds and burning time – researchers often cannot determine when the mediation actually began. It could actually have been with a phone call two weeks before the scheduled mediation.

Ethical issues may also be impediments to access. As McDermott points out, when one party is denied a certain treatment (e.g., the party's dispute is selected as a no-mediation control), service providers may balk because people are being denied a legal right to mediation. In a related vein, access may also be denied because practitioners do not comprehend the logic of experimental design. For example, one of us (Wall) interviewed a mediator who had recently concluded that using a caucus session prior to the opening joint session would produce better results than his long-standing prior practice of beginning the mediation with a joint session. When it was suggested that he randomly apply the two approaches and measure the results, he refused, contending that the new approach was better and therefore had to be used. He would not use his former approach in 50 randomly chosen comparison cases, even though he had been using it for 20 years.

A first cousin to the ethics issue is the perception that mediation studies are intrusive and threatening. As noted by Bingham and McDermott, mediators and institutions are at times uncooperative because they are concerned with what the researchers will find.

A mediator, for example, does not want to learn that disputants consider her brash or impersonal. And the U.S. Postal Services does not want information that the REDRESS program is a dud.

The Academic Reward Structure

As they overcome or cope with the above impediments, researchers may also encounter the institutional cold dawn of number counting. Occasionally, time-consuming, quality work involving field research in complex real world settings is recognized, and the researcher is promoted and well remunerated for it. However, more often, the numbers of articles are tallied, and the sum is used as the criterion because academic administrators do not have the grounding or acumen to judge the quality of research. Therefore, it is a safe bet that career advancement will be better served from numerous articles discussing the success of mediation, law review expositions on the ethicality of various styles, reports on surveys from mediators, announcements of new mediator styles, and criticisms of a previous law review article, than will a 5-year observational study of practicing mediators.

We also note that social psychologists, who were at one time in the vanguard of mediation researchers, and who are well equipped by their training to study the mediation process, have largely migrated to graduate schools of business, where the reward structure is more likely to direct their attention to research on negotiations, a staple of the business school curriculum. Mediation has largely become the provenance of law schools, where fewer research-oriented psychologists are employed. As a result, social psychologists have virtually ceased to contribute to the mediation research literature (Pruitt, 2012).

Where Do We Go from Here?

How do we jump-start mediation research so as to bridge the research-practice gap? As we address this question, it is necessary to acknowledge that the aforementioned problems are apt to persist during the next decade. Academic institutions will continue to reward numerous as opposed to quality publications. Observational and experimental studies will be expensive as well as time-consuming. Funding will be scant. Ethical issues will arise. And tensions will mount between scholars and practitioners when research is planned and implemented.

Despite these drawbacks, we can conduct research on mediation that will add to our knowledge base and that will assist practitioners. The first step in this endeavor is to remind ourselves of what we do know about mediation so that we do not devote future research to rediscoveries. Currently, we do know that mediation is practiced successfully in many venues and has many commendable outcomes such as agreements, disputant satisfaction, reduced expense, improved relationships, and smoother implementation of the agreements. Also, we know that mediation comes in many varieties and is currently well respected by many institutional actors and by the general public. We do not need to rediscover these things.

Because prior reviews have well documented what we do know about mediation we have somewhat underestimated the gaps in our knowledge. And this misperception has been

enhanced by the high success rate of mediation in the field, which indicates to many individuals that we understand the process. However, there are many things we do not understand, and among the most central of these are the effects of mediator style and whether any particular style has justifiable claims to superiority.

We have reviewed above the numerous contributors to our knowledge gaps. Progress has also been thwarted by researchers' reliance on surveys and correlation designs (which cannot indicate causation) and insufficient utilization of comparison or control groups. Yet, the primary drawback, we believe, has been the absence of specific guidance on key issues germane to the research enterprise. To address this deficiency, we will present a concise, yet thorough, research framework. The key components of this framework include:

- (1) Delineation of mediators' styles,
- (2) Style consolidations,
- (3) Determination of the style components,
- (4) Concise enumeration of mediation outcomes,
- (5) Investigation of the style-outcomes relationship, and
- (6) Explorations of mediators' stylistic thinking.

Mediator Style

In our introduction, we offered a simple definition of mediator style, focusing exclusively on mediator behavior, because a thorough, complex one would have proved distracting. Here, we are more complete: *Mediation style is a set of cohesive, interrelated behaviors that are strongly shaped by the mediators' explicit and implicit cognitions of the goals to be achieved and the behaviors that are acceptable (and unacceptable) for achieving those goals.*²

For the sake of simplicity, our earlier definition did not mention mediators thinking about their role. We now note that behavioral expertise of all kinds is heavily influenced by cognitive activity of both a conscious and automatic kind (Ericsson, 2009; Kahneman & Klein, 2009; Klein, 1998;) and that mediator behavior is no exception (Kolb, 1983; Kressel, Frontera, Forlenza, Butler & Fish, 1994; Kressel & Gadlin, 2009). In his commentary, Dean Pruitt emphasizes the importance of mediator thinking in any treatment of mediator stylistic behavior.

Having expanded our definition of mediator style, we need to pose two clarifications. The first, concerns the difference between the mediators' style and the mediators' tactics. As previously noted, the mediators' style is a set of interrelated behaviors designed to accomplish certain overarching mediator goals. The mediation tactics are the specific behaviors that constitute the style. Consider, for example, the pressing style. It is a style in which mediators engage in highly assertive behaviors with the goals of nudging the parties toward a settlement by reducing their aspirations and limits and by aggressively moving

²We understand that cognitions and behaviors are quite intertwined, with cognitions affecting behavior and behavior affecting cognitions. This being the case, readers may chose to say that the mediators' behaviors and cognitions are associated rather than stating that the cognitions determine the behaviors.

them off positions. Consistent with the pressing stylistic conception, the mediators may press the disputants equally or push one harder than the other. In this style, the tactics could include the specific behaviors of:

- (1) Criticizing a disputant's position,
- (2) Calling for a concession,
- (3) Overstating the opponent's demands, or
- (4) Maintaining that the BATNA is very risky.

The second clarification is somewhat self-evident but needs to be emphasized. While there is some debate as to whether mediators do change their style within a mediation or from mediation to mediation, they certainly are capable of doing so. As a simple intramediation example, mediators can adopt a neutral style – doing very little – in the early rounds of mediation, as they determine the disputants' positions. In the middle rounds, they can switch to a pressing strategy, and once a momentum toward an agreement has been established, they can return to a neutral style in the later rounds. It remains an empirical question, however, how often this occurs and whether such stylistic switching is acceptable to all proponents of a specific stylistic model.

Style Consolidation

The next step in our mapping for future research is a call to reduce the current number of styles to a manageable set. Currently, about 25 styles are mentioned in the literature (Wall & Dunne, 2012), but attempts to study all of these – along with their causes and effects – will prove counterproductive. It seems better to focus on a manageable number.

With some thought, reflection, and patience, these 25 can be condensed to five:

- (1) Neutral
- (2) Relational
- (3) Transformative
- (4) Analytic
- (5) Pressing

Consider each. When employing the neutral style, the mediators' goals are only to establish and maintain an interaction between the disputants. That is, the mediators attend to the mediation and set the agenda. In the mediation, they gather information from each side and transfer it to the other. They seek clarifications and communicate one side's opinions and feelings to the other. With this style, mediators do not emphasize agreement or improved relations.

In the relational style, mediators take steps to improve interactions between the parties. Here, the mediators seek to smooth communications; they clarify the underlying feelings and comment favorably about the opponent. Here, the mediators' goals can be to improve the relationship and/or to obtain an agreement.

With the transformative style, mediators have the goals of empowering the disputants and recognizing the opponent's needs and wishes. As Bingham notes in her chapter, agreement is not a goal.

The analytic strategy focuses on the issues, specifically upon the problem that caused the dispute and what each disputant wants from the mediation. The goal here is clarity and/or agreement.

In the pressing strategy, the goals are to move the disputants off positions and toward each other. Here, the mediators utilize tactics to reduce disputants' aspirations and limits or to diminish the perceived value of the BATNA. The goal is agreement.

Prior to advancing to the next step in our mapping, it is worthwhile to explain why we recommend these five styles. We chose the neutral style because mediators may often state that they are neutral and within a mediation they frequently do nothing, other than to be present and keep the disputants communicating. Also the neutral style serves as a good control condition for testing the effects of other styles.

Turning to the relational style, we recommend it as a category label instead of facilitative, because the facilitative style is often defined as what it is not (e.g., it is not a directive/evaluative style), and the facilitative label is also often an expansive umbrella, at times covering styles that are neutral, that assist the disputants in attaining an agreement or that improve their relationship.

As for the transformative style, we list it because there is strong evidence that it is being utilized. Therefore, more evidence needs to be gathered about its effectiveness, and it needs to be clearly distinguished from the relational or facilitative style.

The analytic and pressing styles result from a cleaving of the evaluative/directive style. We proffer the analytic label because mediators can analyze a dispute and the disputants' positions in a neutral, even-handed manner without directing or pressing them. When mediators engage in directing or pressing tactics behaviors, they are utilizing a pressing style.

Style Components

Having targeted these styles for study, the next task is for researchers to delineate the specific behaviors (i.e., tactics) that constitute or make up each style. For the analytic style, researchers might find it is composed of these specific behaviors:

- (1) Listing the issues,
- (2) Establishing the potential agreement points on each issue,
- (3) Prioritizing the issues for each disputant,
- (4) Suggesting trade-offs among the issues,
- (5) Discussing the alternatives and their payoffs, and
- (6) Noting linkages with other, previously ignored issues.

The delineation of the behaviors associated with each style will prove time-consuming and will require unprecedented cooperation among researchers, but it is an essential task because the endeavor underpins the identification of the mediators' styles. To identify the styles which mediators are utilizing, researchers must know and agree upon the tactics which compose each style. In the past, many scholars and practitioners have often simply voiced their opinion – or that of others – as to which behaviors make up which style or by listing the behaviors incompatible with a given style (e.g., a facilitative style is defined as one in which the mediators refrain from giving evaluations).

In the future, we need to improve this delineation. There are several options for doing so, and scholars need to pursue those which are most effective. One approach would be to list all the mediation behaviors mentioned in the literature – currently about 100 – and have scholars as well as practitioners sort them into the five aforementioned categories. A second approach would be to follow the above procedure but allow the sorters to select the number of categories (an approach that might identify new styles to be studied). A third approach would be to observe many mediations, record the specific behaviors of each mediator and have experts factor analyze or sort the behaviors into categories.

Reiteration

To summarize the mapping to this point: we have clarified the definition of style and suggested that in future research, scholars and practitioners should focus upon five styles: neutral, relational, transformative, analytic, and pressing. Subsequently, we advised scholars and practitioners to determine which specific mediator behaviors compose each style. We now focus on the effects of these styles.

Mediation Outcomes

A recent review (Wall & Dunne, 2012) indicates that well over 15 mediation outcomes have been used by researchers in the past decade. To study the effects of mediator styles upon all of these outcomes would be an Augean task; therefore, we need to reduce the number of outcomes to a more manageable set.

Our suggestion is that scholars devote limited time and effort to this task, because, the literature does seem to emphasize four primary outcomes (Wall & Dunne, 2012). These are agreement, satisfaction, improved relationships and implementation of any agreements.

Investigation of Style–Outcome Relationship

With a set of five styles and four outcomes in hand, the stage is set for studying the relationships between the two sets. There are several options for this endeavor. The most basic is to study the direct effect of the selected styles upon the outcomes. For example, one could investigate the effect of the pressing style (vs. the transformative style) upon agreement making, party satisfaction, and the future relationship between the disputants.

A second, somewhat more complex option, is to adopt the approach referred to by Dean Pruitt in his commentary. Researchers can investigate the effects that the situation has upon the mediators' choice of style and therefore upon the achievement of the mediation outcomes. For example, if the dispute involves an infringement in a complex patent, an analytic style (vs. a pressing one) is more apt to be successful.

A third approach is suggested by Tom Kochan in his commentary. Insightfully, he posits a causal chain in which the situation determines the disputants' behavior, which in turn affects the mediators' style and therefore the outcomes. This chain, and the links within it, is open to study. Also, recent work (Kressel & Gadlin, 2009) demonstrates that

the situation and the mediators' thinking determine the style, which in turn affects the outcomes.

We also note the importance of efforts to develop a meaningful taxonomy of mediation situations. As noted, several of our contributors note the importance of situational factors on shaping and constraining mediator stylistic thinking and behavior. One of us (Kressel) has even made the expansive claim from several in-depth studies that situational variables are determinative of mediator style (Kressel, 2007). What is lacking, however, is clarity about the specific situational variables that are likely to have the most consistent and profound effect on mediator stylistic orientation. Preliminary ideas on this matter have been suggested (Coleman, Gozzi, Katsimpras, & Ng, 2012; Kressel, 2007), but more work is clearly needed.

The most promise for theory building, we believe, lies in grounded theory. Adopting this approach, researchers can observe ongoing mediations and develop theories that explain processes and relationships among variables. Subsequently, they could test these in another setting. Such an approach would allow scholars to explore questions such as how mediators respond when a style is not effective, the factors that motivate mediators to alter styles in a mediation, and how disputants respond to each style. A grounded theory approach would also allow researchers to address predictions such as the one posed by Kochan in his commentary. He holds that firms' outsourcing of jobs – which weakens the unions – would reduce mediators' effectiveness. To build relevant theory, here researchers could observe mediators, note the mediators' responses, and record the outcomes of the mediations. They might find that the imbalance of power motivates mediators – in the pursuit of fairness – to attempt to balance power and eventually leads to deadlocks. Or they might find that the imbalance motivates mediators to focus on settlement, press the weaker side, and force an agreement.

These research paradigms, admittedly, are not an exhaustive list of the research opportunities. Rather they simply provide some guidance for studying the style–outcomes relationship and hopefully motivate scholars to consider other relevant research models.

When using the delineated paradigms, or others they may develop, researchers should not adopt a “guess and test” approach. Rather they should use theory to develop hypotheses and utilize laboratory as well as field studies to test them. With regard to the first step, researchers need to develop and utilize relevant theories that predict the links as well as the cause and effect patterns in the mediation process. Moreover, they should focus on the mediators' behaviors rather than straying into the prescriptive arena and listing what the mediators should do.

As mediators make many decisions, it seems the decision-making literature would also prove useful for theory building. Also because the mediators as well as the disputants have expectations, seek outcomes, have goals and are reinforced for their behaviors, the motivation literature should also prove valuable. Scholars could also draw productively from the negotiation and cognitive processing literatures. When drawing upon these literatures, scholars must take care not to make simple extrapolations based only on a consideration of the individual mediator. They must keep in mind that mediators are not isolated individuals who are making simple decisions, who are motivated solely by personal goals and who are negotiating on their own behalf. Rather,

the mediators are interacting with at least two other parties in a complex, dynamic environment.

Having utilized theories to develop predictions, scholars can begin their research. In the laboratory, students can be used as the disputants, and confederates can serve as the mediators so as to test the predicted effectiveness of various styles. Another option is to use actual mediators as the mediators and confederates as the disputants. In such an arrangement, researchers could measure the mediators' goals and values; manipulate the situation and the disputants' behaviors; examine how the mediators think; and investigate the effects of these factors upon the mediators' style.

While the laboratory holds significant potential and has been frightfully ignored in the past decade, we believe that field studies proffer the most opportunities for future research. As Pruitt notes in his commentary, field interviews would be useful. For example, experienced mediators could be asked to note the conditions that call for each style. Or mediators could be given the dispute conditions – in crossed or repeated-measured designs – and asked about the style they would use in each condition.

While interviews (and surveys) with mediators about their past mediations have value for measuring the connection between situational variables and mediator stylistic thinking, we suggest that they be utilized only for theory building and not for theory testing. Our reasoning here is that mediators' reports of their own styles frequently are not accurate (Charkoudian, de Ritis, Buck & Wilson, 2009; Della Noce, Antes, Bush & Saul, 2008), and mediators often stray from the style they intend to use or think they are using (Wall & Chan-Serafin, 2010). Also, regardless of how well an interview (or survey) is constructed, administered, and analyzed, the instrument does not allow researchers to test causation.

Observational studies of actual mediations, we believe, hold the optimal potential for future research and for closing the research–practice gap. In the simplest approach, researchers could begin by considering the variables of interest (e.g., the mediators' view of conflict, the mediators' style and disputant satisfaction). Then in a premediation survey or interview, researchers could measure the mediators' goals and values. And prior to the mediation, they could record the type of dispute, the number of the disputants and the disputants' characteristics. In the mediation, observers could record the mediators' specific behaviors, (which would be coded later for style). And at the end of the mediation, the agreement (or nonagreement), disputant satisfaction and implementation of any agreements could be measured. Also, the amount of time consumed by the mediation could be recorded.

Researchers must also take care to plan for adequate comparison groups rather than simply reporting what mediators did or the effects of certain factors. For example, researchers should not simply report that the transformative style led to a high level of disputant satisfaction. Rather they need to compare the effects of the transformation style to that of another style.

Another field option is the one used by Pruitt (Pruitt et al., 1989); researchers could train mediators in various mediation styles and randomly assign the styles to the disputes which come before the mediators. Or disputants could be trained to behave in different ways (e.g., cooperatively vs. competitively) and the mediators' stylistic responses could be recorded.

Researchers can no doubt devise additional observational studies, but there appears to be fairly widespread feeling that gaining entrance to real-world mediations is fraught with difficulties. Several of our contributors make this point. Our personal experience has been that practitioners and the agencies that employ them are at times quite eager for observational research, especially if the researchers show a strong respect for and interest in the mediators' own thinking about the challenges of the role and how to cope with them (Kressel & Gadlin, 2009; Kressel et al., 1994; Wall & Chan-Serafin, 2010). This being the case, we encourage researchers to be more assertive in seeking mediation sites.

We also encourage researchers to build organized data banks that can be made available to other researchers. The value of such data banks is apparent in Bercovitch's International Conflict Management data set (Bercovitch, 1999). It seems feasible that some scholars might specialize in collecting data; others could be responsible for coding them; and still others could analyze them.

As McDermott suggests, such data banks would be most effective if researchers were to focus on three or four unique contexts and form consortiums for research in these arenas. Kressel (1997) has made a similar suggestion. Our choices for these arenas would be the civil court mediations as well as those for community, labor-management, and international disputes. However, the decision here will have to be made at the grass-roots level, as researchers form their collaborative unions. These cooperative endeavors will not only provide synergy within each research context but will also enable scholars to investigate the effects of context (e.g., does a pressing style [vs. a neutral one] produce a higher level of agreement in community mediations than in civil court mediations?).

Mediators' Cognitive Processes

As they develop their research plans and build their research consortiums, scholars will hopefully recognize that mediators' cognitive processes are key components in mediations. Mediators have much to think about as they work; much of this thinking occurs rapidly under arduous circumstances; and much of it appears to be implicit. Despite the importance of mediator cognition, the topic has been largely ignored (Cf. Kressel, 1997; and Kressel & Gadlin, 2009, for exceptions).

This deficiency needs to be corrected. To investigate mediators' cognitive processes, researchers could accompany mediators throughout a mediation and query them continually. Specifically, the mediators could be asked prior to the first session what factors they are considering and what their stylistic approach might be. Subsequently, after each of the sessions, they could be asked similar questions. Or in a postsession debriefing the observers could ask probing questions about critical episodes involving important phenomena such as mediator reactions to unusually strong displays of disputant anger, moments of apparent mediator confusion, or a sudden shift by disputants from numbers-only exchanges to emotional disclosures.

Scholars, we are confident, can develop approaches in addition to this one. And they should do so because mediators' thinking underpins almost all aspects of the mediation process.

Conclusion

When advocating the study of mediator style, reporting the limits of our knowledge about style and offering a research map to enhance our knowledge base, we do not wish to constrain scholars' reflections or straight-jacket future research. Rather, we seek to encourage creative thinking and to foster future research by indicating some specific routes that can prove fruitful. By focusing on a limited number of styles and outcomes, determining the tactical composition of each style, building theory and testing it in laboratory or field studies, and elucidating mediator stylistic thinking, researchers can build our knowledge base. Advancement, we believe, will depend significantly upon cooperation among researchers and the active search for collaborative practitioners and practice settings. Consortiums need to be established for studying mediation in various contexts, and data banks need to be built for studying stylistic effects, replicating results and making comparisons across contexts. Such endeavors, we believe, can improve our understanding of mediation and begin to bridge the research-practice gap.

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