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2016

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Recommended Citation

Kelly B. Olson, Book Review, 54 Fam. Ct. Rev. 530 (July 2016) (reviewing Bernie Mayer, *The Conflict Paradox: Seven Dilemmas at the Core of Disputes* (2015)).

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BOOK REVIEW: *THE CONFLICT PARADOX: SEVEN DILEMMAS AT THE CORE OF DISPUTES* BY BERNIE MAYER

Kelly Browe Olson

Bernie Mayer's latest book is an excellent journey into seven key dilemmas in conflict. Mayer devotes a chapter to each of the following dilemmas: Competition and Cooperation, Optimism and Realism, Avoidance and Engagement, Principle and Compromise, Emotions and Logic, Impartiality and Advocacy, and Autonomy and Community. In this review, I suggest that the book is a thorough guide through seemingly diverse and opposing conflict theories. I go through each chapter and detail how Mayer sees these concepts as interwoven instead of oppositional. He walks his readers through what have been thought of as distinctive, even opposing, approaches, theories, and concepts of conflict. The review uses points and quotes from all seven dilemmas to show the depth of Mayer's analysis and the numerous benefits to theorists and practitioners of reading and rereading his book.

Key Points for the Family Court Community:

- This review summarizes Bernie Mayer's book exploring seven key dilemmas.

Keywords: *Advocacy; Balance; Conflict; Dilemma; Negotiation; Neutrality; and Paradox.*

[T]o act with certainty while being aware of our doubts, to be committed to our principles and aware of their limitations, to act with the intellectual clarity that only our emotions can achieve, and to be committed to the community of change while we maintain our autonomy of doubt . . . requires that we increase our ability to embrace paradox.¹

The quotation above is from the last page of *The Conflict Paradox*, Bernie Mayer's latest comprehensive trek deep into the heart of conflict. Mayer says his goal for the book is to increase our capacity to embrace paradox. This book is an excellent, thorough guide through seemingly diverse and opposing conflict theories. It encourages new examination of the interdependent relationships between these theories. As all talented guides do, he tells stories and points out many connections along the way to help his readers more easily make previously unseen connections. While the journey, like the quote, is complex, we could not be in better hands.

I highly recommend this book to conflict intervenors, experts, and disputants who struggle to define the parameters of their conflicts, or to anyone who wants to think more deeply about conflict. This book will join his others as an important ongoing resource.

Mayer devotes a chapter to each of the following dilemmas: Competition and Cooperation, Optimism and Realism, Avoidance and Engagement, Principle and Compromise, Emotions and Logic, Impartiality and Advocacy, and Autonomy and Community.² In each chapter he discusses the essence of these concepts and how intervenors and disputants err when they treat these concepts as opposites or at least diverging paths. In all seven dilemmas, he walks his readers through what have been thought of as distinctive, even opposing, approaches, theories, and concepts of conflict.

Mayer does much more than describe the dilemmas. He presents research on each concept, uses case study examples of conflicts where the concepts exist, and offers helpful tools from his own experiences where a dilemma seemed to be derailing a resolution. As Mayer states in the preface, this book is more personal than his previous work. In each chapter, he includes helpful examples from past family, interpersonal, organizational, employment, or other type of conflicts. These are

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either used to discuss the concepts or found in the “Reflections from Practice” section that focuses on his personal reflections from life and cases he has consulted on, mediated or facilitated. He makes well-supported contentions that none of the concepts are as dichotomous as previously thought. Disputes often reach impasse when the participants look at the conflict from completely different perspectives. Mayer counsels intervenors to help their disputants interweave their disparate perceptions in the resolution process instead of forcing them to choose one theory, concept, or position. This book provides conflict intervenors with many ideas on how to move past stalemates, consider the dilemmas thoughtfully, and successfully create stronger and more powerful resolutions.

Mayer explores how intervenors often try to help their parties make determinations about when to compete or cooperate, be led by unrealistic optimism or realism, when to avoid or engage in resolution efforts, whether to adhere to principles or seek a compromise, when to focus on emotions or more logical means of persuasion or decision making, and whether parties should seek solutions and relationships that result in greater independence or interdependence, while they are missing the bigger picture. His answer is to incorporate both. He does not want intervenors to try to balance one against the other (balance is a term you will not see used until the end of the book, when he explains why he thinks it is overused and usually used incorrectly) or respond to one with the other, but instead work out how to use both elements to help the parties reach a comprehensive solution. He wants conflict intervenors to help disputants accept these dilemmas and, instead of picking one side or the other, embrace the paradoxes as necessary components of their resolution.

In the chapter on the first dilemma, between competition and cooperation, Mayer discusses how verbal and nonverbal interactions in a dispute often contain both elements of cooperation and competition. While he has seen that it is much easier to make progress after a cooperative opening than after a hostile or aggressive one, no one strategy always works. He points out that real conflict is far more complex than the prisoner’s dilemma and that messages are never purely cooperative or competitive. While it is hard, Mayer wants intervenors to allow for the complexity of a discussion that includes competitive and cooperative elements. And while in a previous book he has discussed the problems of thinking that we are either the “jerk” or the “sucker,” he suggests we need to be both in order to integrate the concepts of competition and cooperation successfully.

In the chapter on optimism and realism, Mayer writes that intervenors must have some level of both optimism and realism to handle serious conflict. He relates this to the belief of many conflict experts, that we can play positive role in making the world a better place. Mayer encourages his readers to embrace uncertainty, but understands that it is a continual challenge to find that spot where there is uncertainty but not so much that it paralyzes the participants.

He discusses how intervenors and disputants should temper optimism with realism and also suggests that the capacity to be a positive about the potential for making progress in a conflict is an important part of how clients perceive mediators. One of his goals is integrative reframing. He presents tools that intervenors can use to help parties who are stuck in either optimistic or realistic frames: mirroring, naming, challenging, deferring, referring, and ignoring.³

In his chapter on the third dilemma, between avoidance and engagement, Mayer talks about while these concepts seem oppositional, they are especially intertwined. He has found that a healthy dose of avoidance is necessary for effective conflict engagement efforts.⁴ He uses the example of when we engage in one conflict we are likely avoiding another. He encourages intervenors to consider multiple factors, including the disputants’ timing, behavior, responses to the behavior, and whether their approach is aligned with their goals and conflict. This will help intervenors and the parties assess how to incorporate avoidance and engagement theories into the discussions.

The fourth paradox is between principle and compromise. Mayer suggests that while this is one of the more difficult dilemmas, there is a bridge between these principles. He suggests that conflict intervenors need to help parties acknowledge their principles within the context of “the evolving reality in which we live.” Mayer looks at resource and value disputes that may masquerade as one another in this dilemma, and says that intervenors need to work carefully as many disputants see compromise as moral or personal weakness and giving up their principles. While they are important,

he cautions conflict intervenors not to allow those frameworks to dominate and push the dispute toward an impasse.

I particularly appreciated two of Mayer's quotations in this chapter:

When we are clear about our principles and find clear and constructive ways of articulating them, we often find areas of agreement where previously we saw only an irresolvable value conflict.⁵

Approaching conflict with the principle stance is empowering. . . [b]ut we should not lose sight of the power of wise compromise as well. Compromise helps bolster and enhance the power of those principles.⁶

These should help conflict intervenors and their disputants understand the differences between real and false conflicts over principles. I foresee using this concept in many family mediations, where some of the parties have a real difficulty with compromising, and frequently want to "stand on principle." Mayer also points out that, while intervenors talk about principles, they also require some compromises without identifying them as such. This shows, he says, that the concepts are interdependent. He finds that "embracing the dilemma is the most genuine path to constructive engagement."⁷

Mayer also discusses the interplay between value and resource conflicts and how these are connected to principle and compromise discussions. He asks, and says conflict intervenors need to have their parties consider, "How do we further our principles by compromising?" He points out that it is important to leave room for disputants to think about creativity and flexibility. This provides for a more nuanced approach that allows disputants to maintain their core principles while moving forward in ways that would not otherwise be possible.

In this chapter, he also discusses the hard questions that happen when we are "dealing with the devil." How do we determine whether the situation should provide for an important opportunity to make a principled stand through negotiation or the refusal to negotiate? While in hindsight it is easy to see where Neville Chamberlain went wrong and Winston Churchill was correct, it is much harder in the heat of the moment. Mayer suggests that it is not a choice between principle and compromise but the idea that "principle should not be abandoned and compromises still need to be principled."

In Chapter 6, the fifth dilemma is between emotions and logic. While intervenors frequently acknowledge that both of these concepts play a role within their processes, most have focused on helping their parties overcome emotion in order to act rationally. Mayer suggests that this is one of the largest false dichotomies in conflict resolution. He writes that in order to comprehensively address a conflict, there cannot be one or the other; there must be an appeal to both emotions and logic. While many conflict specialists still try to have the parties separate their emotions from their logical awareness, Mayer points out that we frequently make decisions using overlapping emotional and logical thoughts. Mayer discusses how the dilemma between these factors is often exacerbated by the intervenors who seek to have their parties move past emotion and to logic or who rely on tests that determine whether someone bases their decisions on logic or emotion. He theorizes that participants must be allowed to experience their emotions and also remain aware of them in order to deal logically through the conflict.

Mayer finds that, while it might seem that some parties are more logical and others are focused on emotion, as with the other dilemmas, there are characteristics of both concepts in many statements and decisions. If disputants only see one perspective of the other side's argument, they may seem much further apart than they actually are. Mayer asks three questions: (1) How are emotions experienced?; (2) How are they expressed?; and (3) How are they managed?⁸ He finds that, while these questions show that gender and cultural differences exist, they are usually related to the expression of emotion. While how they are experienced has more similarities across culture and gender.

In Chapter 6, Mayer addresses his sixth dilemma, neutrality and advocacy. This paradox is persuasive, as Mayer says, because conflict intervenors are often successful due to "our commitment to impartiality and our effectiveness as advocates."⁹ Disputants rely on intervenors because we can advocate for the process, or a mutually agreed upon outcome, yet many of us shy away from the thought of being

an advocate, thinking it implies partiality. Mayer argues that it is impossible to remain neutral about the substance and advocate for process because “process and substance are inextricably intertwined.”¹⁰

Mayer points out that to have neutrality is not to be “uncaring, uncommitted or indecisive,” but that it “takes a considerable amount of discipline, skill and commitment.”¹¹ Mayer adds cognitive neutrality to the five aspects of neutrality he has previously discussed.¹² When he turns to the advocacy realm, he discusses that advocates need to have emotional, communication, and strategic skills to effectively negotiate for and with their clients. He discusses an ongoing policy and practice debate between Larry Susskind and Josh Stulberg around advocacy and neutrality.¹³ While Susskind argues that intervenors should work for resolutions with socially desirable outcomes, lest we lose legitimacy, Stulberg argues that taking on the burden just for outcomes is beyond the scope of the mediator’s responsibilities. While Susskind, Stulberg, and others have approaches that are commonly seen among dispute resolvers, Mayer again pushes his readers to move beyond these approaches and consider both, this time through examples from practice. In these examples, he brings advocacy and neutrality together by “maintaining a commitment to addressing each party’s concerns and a perspective on how the situation might appear to each.”¹⁴

He acknowledges that while his perspective and understanding start as impartial, he will at times act as an advocate.¹⁵ He ends the chapter by pointing out, “at times we want our allies to be impartial and our neutrals to be advocates” and that when we intervene into conflicts, our effectiveness and credibility requires us to meet these needs.¹⁶

Mayer’s final dilemma is between community and autonomy. He refers to this dilemma as “the core of an intervenor’s challenge.”¹⁷ While every human being needs to be a part of a community, we also strive to be unique and define ourselves as individuals. He refers to this as a central fact of human existence and essentially defines it as identity. He writes that autonomy refers to the degree in which we can act think or feel independently.

We establish our independence by having healthy attachment to others and we can become truly autonomous only if we have a healthy network of social relationships.¹⁸

Without healthy social networks, we may rely too much or too little on what others think of us. Conflict may challenge someone’s autonomy and their sense of community. Conflict intervenors need to help disputants in multiple ways, by giving them permission to stay in conflict or helping them develop a vision of what the changes will look like, or perhaps in naming the challenges that they face.¹⁹

Mayer refers to four lessons he has learned through his experiences in intentional communities. One, boundaries are important; two, people should be supported both when they are ready to withdraw and when they are ready to reengage; three, both formal and informal rituals of coming together are important; and four, communities need an effective way to deal with conflict.²⁰ He has used these lessons personally and professionally over the years to help people through their conflicts.

In Mayer’s final chapter, he discusses several additional paradoxes and discusses how the paradoxes work through a single conflict. He suggests the reader think of moving through the paradoxes as a dialectical process.²¹ His prediction for using this process with these concepts infers that through the struggle between and among these principles and concepts, greater awareness, understanding, and unity will develop.

Mayer admits that while his dilemmas suggest paths that conflict intervenors can take with the disputants to move them beyond their polarities, it is not an easy or clear path. By moving beyond these polarities, he thinks the parties can and should reach a more nuanced, sustainable, and useful understanding of their challenges and choices. Mayer’s final paragraph begins “[w]e need diversity, we need complexity, we need clarity and we need simplicity.”²² Like finding our way to the heart of the paradoxes, it takes a while to realize the extent to which Mayer is turning conflict theory around on itself. He wants intervenors to go beyond simple explanations, to not let clients bail on difficult conversations and working through their challenges. Mayer has argued before that the balance is a misleading concept. He says that the concepts of balancing interests between the parties or taking a balanced approach are very limiting and it is somewhat disingenuous to think it is possible to do this.

He finds a paradox is a better metaphor and a better conceptual framework. While it will not be easy to walk clients through a competitive cooperation, or to understand the connections between autonomy and community or avoidance and engagement, he shows how considering these dilemmas will lead to better conceptual frameworks. While a paradox is complex, he wants intervenors and their disputants to accept and work through the complexities of these conflict paradoxes.

Mayer's goal was to increase our capacity to embrace paradox. His research, analysis, and personal reflections combined offer readers multiple opportunities to reach that goal by focusing on the relationships between these concepts instead of their previously emphasized distinctions, if not oppositional qualities. After reading the book in its entirety, I found myself going back to several chapters with specific cases in mind. As with Mayer's other books, *Conflict Paradox* readers will want to return to the book multiple times to reread the suggestions and insights he offers.

NOTES

1. BERNIE MAYER, *THE CONFLICT PARADOX: SEVEN DILEMMAS AT THE CORE OF DISPUTES*, 293 (1st ed. 2015).
2. He briefly discusses several more near the end of the book.
3. MAYER, *supra* note 1, at 88–90.
4. *Id.* at 129.
5. *Id.* at 145.
6. These are the opening lines of two paragraphs on the page. *Id.* at 148.
7. *Id.* at 166.
8. *Id.* at 192.
9. *Id.* at 203.
10. *Id.*
11. *Id.* at 204.
12. Structuring neutrality, behavioral neutrality, emotional neutrality, perceptive neutrality, and aspirational neutrality are the neutralities he has previously discussed. He discusses how the elements of neutrality overlap with each other and with advocacy in conflict interventions. *Id.* at 209.
13. *Id.* at 225.
14. *Id.* at 231.
15. *Id.*
16. *Id.* at 236.
17. *Id.* at 249.
18. *Id.* at 248.
19. *Id.* at 250–52.
20. *Id.* at 262–63.
21. *Id.* at 271.
22. *Id.* at 293.

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