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**WHAT COULD A LEADER LEARN FROM A MEDIATOR?**

**DISPUTE RESOLUTION STRATEGIES FOR  
ORGANIZATIONAL LEADERSHIP**

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*“In the past half century a great deal has been learned about the resolving of disputes, and leaders should familiarize themselves with it.”*

John W. Gardner<sup>1</sup>

It is hard to imagine a leadership situation that is devoid of conflict or even what the function of leadership would be on an island of perpetual harmony where all parties shared a perfectly common vision of their objectives and how to achieve them. Many of leadership’s most important challenges are born of conflict—to build coalitions among divergent interests, forge consensus from discord, and transform destructive disagreement into constructive debates (Burns, 1978; Gardner, 1990; Selznick, 1957). We easily recognize effective leaders as expert negotiators as they confront and appeal to a multiplicity of interests to achieve their objectives (Lax & Sebenius, 1986; Neustadt, 1990; Raiffa, 1982). We less often recognize when leaders are acting as informal mediators or arbitrators of disputes. Yet, the activities of mediators and arbitrators overlap a great deal with the skills and responsibilities of leadership (Raiffa, 1983).

The aim of this paper is to leverage some of the insights from the study of formal dispute resolution for the practice of leadership, and to provide organizational leaders with some new lenses for analyzing the strategies they choose in managing disputes.<sup>2</sup> The paper begins with a brief introduction to three formal dispute resolution processes: mediation, arbitration, and “med-arb” (a sequential combination of mediation and then, if necessary, arbitration). It continues with a discussion of some of the commonalities and distinctions between the roles that leaders and formal third parties play in resolving disputes. The paper closes with an exploration of some of the advantages and disadvantages of these three dispute resolution strategies, depending on particular barriers to dispute resolution and leadership objectives.

## **MEDIATION, ARBITRATION AND MED-ARB**

A *mediator* is a third party who helps conflicting parties reach a voluntary agreement (Pruitt & Rubin, 1986, 203). Generally, mediators convene and orchestrate a series of private and joint meetings with the parties to explore the participants’ interests and options for resolving the dispute and crafting a mutually acceptable final agreement (Picker, 2003; Duffy, Grosch, & Olczak, 1991; Beer & Stief, 1997). An *arbitrator* is a third party tasked with making a binding decision in order to resolve a dispute (Conlon, 1988; Pruitt & Rubin, 1986). In arbitration, the third party convenes a form of hearing, at which the parties have an opportunity to explain their positions and present testimonies or other evidence supporting their cases (Ross & Conlon, 2000, 417). Mediators and arbitrators both maintain considerable control over the dispute resolution process, but arbitrators are supposed to take control over the outcome of the dispute and mediators are not (Conlon, 1988; Sheppard, 1984).

In practice, this distinction between mediators and arbitrators is sometimes blurred. There are relatively weak mediator roles, for instance, where the third party has no particular expertise with regard to the substance of the dispute. Third parties in weaker mediator roles tend to act as neutral facilitators, employing their process skills to maintain a fair and constructive discussion and to encourage the parties to reach their own mutually beneficial solutions. There are also stronger mediator roles, where the third party may suggest solutions or draft agreements and even pressure participants toward a particular resolution of the dispute (Raiffa, 1983). (For descriptions of a range of mediator tactics and strategies, see: Pruitt & Rubin, 1986; Kolb, 1985; Carnevale, 1986). These stronger mediators cannot dictate solutions, but they may have considerable sway over the how the parties resolve the dispute.

Med-arb is a two-phase process. In the first phase, the parties attempt to reach a voluntary solution with the help of the third party acting as a mediator. If the first phase is unsuccessful, the third party shifts from the role of mediator to the role of arbitrator and issues a binding resolution to the dispute (Ross & Conlon, 2000).<sup>3</sup> Studies have shown that mediators who have the ability to impose a solution act more like the stronger mediators described above, intervening forcefully at times and using heavy-handed tactics to pressure the parties into agreement (Conlon, Carnevale & Murnighan, 1994; McGillicuddy, Welton & Pruitt, 1987). There is also evidence to suggest that parties may be more conciliatory toward one another in med-arb mediation as opposed straight mediation—perhaps out of fear of losing control of the outcome or out of deference to an authority who can decide their fate (McGillicuddy, et al., 1987).

### General Advantages and Disadvantages

Mediation processes tend to have high but not perfect rates of agreement (e.g., an estimated 60 to 80 percent in some research). The greatest advantage of arbitration and med-arb processes over straight mediation is that the third-party retains the right to decide the outcome of the dispute (Ross & Conlon, 2000). Conversely, the strongest advantage of mediation and med-arb procedures over straight arbitration is the feeling of control that the parties have over the final outcome of the dispute.

Research shows that the more decision control the parties perceived themselves to have had, the fairer they judge the process and outcome to be (Conlon & Ross, 1992; Brett & Goldberg, 1983; Shapiro & Brett, 1993). Fair process is important to dispute resolution because it tends to enhance participants' satisfaction with the outcome, improve relations between the parties, and prevent the emergence of new problems or a recurrence of past disputes (Pruitt, et al., 1993; Shapiro & Brett, 1993; Karambayya & Brett, 1989; Karambayya, Brett & Lytle, 1992; Lind & Tyler, 1988; Thibaut & Walker, 1975). If the parties do not perceive a dispute resolution process to have been fair, they are more likely to actively or passively resist the outcome (Pruitt, et al. 1993; Ross & Conlon, 2000).

Another advantage of mediation over arbitration is the potential for enhanced information sharing and joint problem solving between the parties. The parties' principal responsibility in mediation is to reach a mutually beneficial solution with their counterparts. The parties' principal responsibility in arbitration is to persuade the third party of the correctness or righteousness of their position in the dispute. Parties in an arbitration process are likely to be more strategic in their information sharing than are parties in a mediation process, because their job is to win rather than to collaborate to resolve the dispute. Because of this fundamental difference in the parties' perspectives, mediators tend to be in a better position than arbitrators to surface all relevant information to the dispute, identify shared or compatible interests, explore options for joint gains and, ultimately, maximize the efficiency of the dispute resolution outcome so that no value is left on the table (Raiffa, 1983; Pruitt & Rubin, 1986; Ross & Conlon, 2000). It warrants noting that one potential downside of med-arb, compared to straight mediation, is that the parties may be reluctant to share information during the mediation phase if the sharing might reflect negatively on their case in the arbitration phase. Such strategic control of information could undermine the identification of mutually beneficial solutions (Ross & Conlon, 2000).

### Leaders as Mediators and Arbitrators

There are some strong analogies to be drawn between these three formal dispute resolution processes (i.e., mediation, med-arb, and arbitration) and the roles that leaders play. For instance, a chief executive

**“Parties in an arbitration process are likely to be more strategic in their information sharing than are parties in a mediation process.”**

officer (CEO) may act a lot like a mediator in managing conflicts among members of the board of directors. The CEO does not have the authority to impose a solution when disputes arise among board members as an arbitrator would, but the CEO may play a central role in facilitating agreement on productive solutions to governance issues as a mediator would (Raiffa, 1983, 203-207). When disputes arise between subordinates, the CEO may decide to hear out both sides and issue a decision as an arbitrator would, or try first to help the parties to find their own solution to the problem before resorting to solving their problem for them as would a formal third party in med-arb (Raiffa, 1983; Ross & Conlon, 2000).

However, unlike formal third parties who are assigned to mediator, med-arb, or arbitrator roles, leaders rarely benefit from clear procedural guidelines as to how they are supposed to manage disputes (Karambayya & Brett, 1989; Kolb & Sheppard, 1985). Leaders' enhanced discretion provides the advantage of flexibility of response, but it also creates uncertainty as to what is the appropriate course of action (Conlon, Carnevale & Murnighan, 1994). Organizational disputes are also rarely as well defined and demarcated as are the disputes assigned to formal third parties. Indeed, as Kolb and Sheppard (1985) explain, "Organizational conflicts are not conceived of as disputes but as problems ... that are embedded in ongoing organizational activity" (385). Leaders have to interpret for themselves what are the boundaries of the problem at hand, who are the appropriate parties to involve in the problem-solving process, and what type of process strategy they should adopt in attempting to resolve the issue. Moreover, some organizational norms and cultures suppress conflict and/or pressure leaders to make decisions in such a way that opportunities to employ dispute resolution strategies, such as mediation, become obscured (Kolb & Sheppard, 1985).

Another factor that complicates the dispute resolution roles that leaders adopt is that leaders rarely approach disputes as fully detached and disinterested parties. Parties normally seek out the assistance of formal third parties for their independence and neutrality toward the dispute, as well as for their dispute resolution skills and expertise. Organizational leaders, in contrast, generally have ongoing relationships with the disputants and a personal stake in how the dispute is resolved (Kolb & Sheppard, 1985; Carnevale, 1986). Leaders have to figure into their dispute resolution strategy choices how their intervention might affect their ongoing relationship with the disputants and how options for resolving the dispute could affect their own self interest (Conlon, Carnevale & Murnighan, 1994; Carnevale, 1986). A leader may feel compelled to play to a more directive role, for instance, when organizational members are coming to an agreement with which the leader disagrees (Conlon, Carnevale & Murnighan, 1994, 408). Parties' outcome expectations are also likely to be influenced by whether they perceive the leader to be positively affiliated with their own or the other side of the dispute, and these prior expectations may color their satisfaction with the process and outcome (Conlon & Ross, 1993).

In sum, as compared to most formal third parties, organizational leaders tend to have more discretion in choosing their dispute resolution strategy and tend to enter the dispute resolution process with a greater stake in the dispute resolution process and outcome. These discrepancies do not obviate the potential usefulness of formal dispute strategies for organizational leadership. Indeed, as Carnevale (1986) argues, there is a strong analogy between intervention in organizational and in international disputes. Like organizational leaders, international mediators enter dispute resolution processes with interests in maintaining long-term relationships with the parties and in influencing how problems between the parties are solved. As is the case with international mediators, organizational leaders have to adapt their strategies over time to the situational circumstances and their intervention objectives.

## MATCHING THE PROCESS WITH THE PROBLEM

The following section outlines five barriers to organizational dispute resolution and five objectives that leaders may carry into dispute resolution efforts. Further, it explores some of the advantages and disadvantages of the three dispute resolution process strategies described above: arbitration, mediation, and med-arb. Applied to the leadership situations, an *arbitration strategy* would involve reviewing each side's argument in the dispute and issuing a final decision for the resolution of the problem. A *mediation strategy* would involve approaching the problem with the intention of helping the parties work together to achieve a resolution to their dispute. To achieve this goal, the leader would employ process tools of mediation such as holding private and joint meetings with the parties, probing the parties' interests, exploring options for resolving the dispute, and facilitating the crafting of an agreement between the parties that is efficient (i.e., leaves no value on the table) and sustainable. A mediation approach would require holding back from imposing a solution on the parties but would still allow for considerable influence by the leader over the final resolution. A med-arb strategy would involve a hybrid approach. The leader would employ the tools of a mediation strategy, but make clear to the parties that, if they cannot reach agreement, he or she will hear out each side and impose a solution. It warrants noting that a pure mediation strategy is a false option if the leader has decision-making authority over the resolution of the dispute, because a pure mediation strategy would entail abdicating that responsibility. If the leader has decision-making authority, a dispute resolution strategy involving mediation is by definition a med-arb strategy.

As summarized in Tables 1 and 2, I explore the implications of each of these dispute resolution process strategies given a specific barrier and leadership objective and propose a suggested strategy. The list of barriers and objectives were selected for illustrative purposes; they do not exhaustively or even systematically represent the range of barriers faced or objectives pursued by organizational leaders. In proposing a suggested strategy for addressing one of these barriers or objectives, I am assuming that the leader seeks an efficient resolution to the dispute and to its antecedents (e.g., relationship issues, systemic problems) to the extent that they are likely to impede sustainable resolution of the problem. I break down the discussion by individual barrier and leadership objective for expositional purposes and not to suggest that the preferred strategy given a particular barrier or objective necessarily makes it the appropriate course of action. Most organizational disputes are characterized by more than one of these (and other) barriers, and leaders often have more than one objective in resolving a dispute. The purpose of the following analysis is to illuminate some of the pros and cons of these dispute resolution processes depending on situational circumstances. Leaders should obviously weigh the importance of competing considerations and choose the approach that they deem to be the best match to the problem.

### Barriers to Dispute Resolution

The five barriers to dispute resolution addressed are summarized in Table 1. The first is a lack of authority to impose a solution to a dispute. The second barrier arises when a substantive dispute escalates into or has its roots in an interpersonal conflict that impedes the sustainable resolution of the dispute. The third potential barrier is the complexity of the problem. The fourth potential barrier is a high number of stakeholders to the dispute. The fifth is self-serving bias, an example of a psychological barrier that can lead parties to be overconfident about their positions and impede their ability to resolve their disputes.

**TABLE 1** SUMMARY SUGGESTED DISPUTE RESOLUTION PROCESS STRATEGY GIVEN BARRIER TO DISPUTE RESOLUTION

Barrier	Suggested Process Strategy	Summary of Explanation
<i>Lack of authority to impose solution</i>	Mediation	Arbitration strategy likely to engender resistance from parties. Mediation strategy enhances influence over dispute resolution process and outcome in absence of decision-making authority.
<i>Poor relationship between disputants</i>	Mediation or Med-Arb <sup>a</sup>	Pure arbitration strategy solves substance, but not relationship problem. Mediation strategy helps parties learn to work together.
<i>Complex multi-issue dispute</i>	Mediation or Med-Arb	Arbitration strategy limited to presenting problem. Mediation strategy allows for more thorough problem-solving process.
<i>Multiple stakeholders</i>	Mediation or Med-Arb	Arbitration strategy limited to direct parties to dispute. Mediation strategy allows for broader inclusion of interested parties.
<i>Self-serving bias</i>	Mediation or Med-Arb	Arbitration strategy heightens bias by focusing parties on winning over compromise. Mediation encourages more perspective-taking.

<sup>a</sup> Whether a mediation or med-arb strategy applies depends on whether the leader has decision-making authority.

**TABLE 2** SUMMARY SUGGESTED DISPUTE RESOLUTION PROCESS STRATEGY GIVEN LEADERSHIP OBJECTIVE

Leadership Objective	Suggested Process Strategy	Summary of Explanation
<i>Maximize fairness of process and outcome</i>	Mediation or Med-Arb <sup>a</sup>	Parties tend to perceive mediation and med-arb processes to be fairer than arbitration processes.
<i>Maximize efficiency of solution</i>	Mediation or Med-Arb	Arbitration invites strategic information revelation. Mediation encourages more information sharing and joint problem solving.
<i>Minimize time cost of process</i>	Arbitration	Mediation and med-arb processes tend to be time-consuming. Arbitration strategy minimizes time costs to decision maker.
<i>Establish policy</i>	Arbitration	Arbitration strategy more appropriate for leader establishing policy or precedent. Mediation gives decision-making authority to parties to solve their own circumscribed problem.
<i>Redress ethical problem</i>	Arbitration	Arbitration strategy more appropriate when ethical issues arise between disputants. Mediation outcomes may not be valid if not conducted in good faith or if power imbalance between parties.

<sup>a</sup> Whether a mediation or med-arb strategy applies depends on whether the leader has decision-making authority.

### ***Lack of Authority to Impose a Solution***

Leaders are likely to be particularly tempted to intervene and become more directive in disputes when they are concerned about the outcome or perceive their own interests to be at stake (Conlon, Carnevale & Murnighan, 1994). Yet, there are many disputes that arise in organizations that leaders cannot resolve on their own, because they lack the authority—formal or informal—to impose their way. Research shows that managers who lack the authority to impose a solution are more likely to fail in resolving a dispute when they attempt to tell the parties what to do, as opposed to try to mediate an agreement between them (Karambayya, Brett & Lytle, 1992). The advantage of a mediation approach is that it enhances parties' sense of ownership over the problem-solving process while still allowing the leader a great deal of influence over the substantive outcome of the dispute. Even though they do not have final decision-making authority, mediators may become deeply involved in the details of how a dispute is resolved and leverage their status, authority, and resources to influence the parties in a particular substantive direction (Pruitt & Rubin, 1986; Carnevale, 1986). As summarized in Table 1, mediation is the suggested dispute resolution process strategy when leaders seek resolutions to disputes that they do not have the formal or informal authority to resolve on their own.

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### ***Relationship Conflict***

The more acrimonious a dispute between colleagues, the less likely we are to think that a cooperative solution can be found (Thompson & Kim, 2000). The less potential we see for a cooperative solution between the disputants, the more tempted we are to impose our own solution to the problem (Conlon, Carnevale & Murnighan, 1994, 406). If leaders make a practice of solving the problems of bickering colleagues for them (e.g., using an arbitration strategy), then those colleagues are likely to come to believe that the way to answer their problems is to appeal to the boss as opposed to trying harder to work together. Moreover, if the leader's solution to the colleagues' problem seems unfair or does not reflect an understanding of their primary concerns (e.g., that the other person is really the problem), the disputants' motivation for following the leader's solution may be diminished. When faced with a dispute in which the parties are unable to work together constructively, it is in the long-term interest of the leader and organization to invest the time to employ a mediation or med-arb strategy, rather than arbitration, that helps the parties learn how to work through their problems and that heightens their commitment to the dispute resolution outcome (Karambayya & Brett, 1989; Pruitt, et al., 1993; Sander & Goldberg, 1994).

### ***Complex Multi-Issue Dispute***

Some organizational problems run deeper and are more complex than the immediate dispute might suggest. As a result, to address only the presenting problem would not prevent future eruptions over the same fundamental issues. For instance, recurrent disputes over the quality or timeliness of work products or a lack of responsiveness to email and phone messages might appear on the surface to be interpersonal squabbles, but they could also reflect deeper organizational issues. Co-workers may believe they are underserved by certain colleagues, while those colleagues are simply prioritizing their work to be consistent with organizational incentives. A dispute over an employee's workload or job responsibilities may be best resolved by evaluating the alignment of their compensation or promotion incentives with organizational needs.

When leaders employ mediation or med-arb strategies, rather than pure arbitration, they are better positioned to diagnose the problem jointly with the parties and to enlarge the agenda in ways that facilitate a more thorough resolution of the dispute (Sander & Goldberg, 1994). Once the parties achieve a more constructive definition of the problem and start generating options for resolving the broader issues, the

leader can continue to facilitate the problem-solving process by helping the parties generate creative avenues for agreement, imposing deadlines, and ensuring the faithful execution of the agreement (Raiffa, 1983, 202-203). Even if the parties clearly cannot fully resolve the problem on their own, a med-arb strategy may still be preferable to a pure arbitration strategy. This is because the leader is likely to gain a deeper grasp of the problem and of options for its resolution over the course of an initial mediation phase than he or she could achieve through a pure arbitration process where parties compete to win over the leader to their starting position in the dispute. As described above, mediation and med-arb strategies are likely to be more effective than an arbitration strategy at maximizing information sharing and joint problem solving, which are often important in resolving complex, multi-issue disputes.

### ***Multiple Stakeholders***

Multiple stakeholders can pose barriers both to the dispute resolution process and to the sustainable resolution of a dispute once agreement has been reached. Imagine, for example, that there is a dispute between the information technology (IT) group and the finance department over the timeline and process for the implementation of new accounting software. A senior manager within the organization could take an arbitration approach to the dispute between the IT manager and finance officer, hear out each side's concerns and issue a decision to resolve the dispute. However, ameliorating the friction between finance and IT might still leave unaddressed the grumbling among administrative staff about how cumbersome and confusing the software is. The administrative staff may believe that they also deserve a voice in the way changes in accounting procedures are implemented and may be resistant to plans on which they have not been consulted. As mentioned above, research shows that people are more likely to go along with decisions that they believe were reached by a fair process, and people are more likely to perceive a process to be fair if they were consulted during the decision making, not simply informed of the result (Tyler, 1989). An arbitration strategy would not address the concerns of the administrative staff, whose cooperation would ultimately be needed in order to implement the new system successfully. By employing a mediation or med-arb strategy, the senior manager could construct a dispute resolution process that included consultations with administrative staff and that engendered a broader sense of ownership of the final solution. When stakeholders present a barrier to dispute resolution, a mediation or med-arb strategy enables the leader to be more inclusive in ways that facilitate the sustainable resolution of the dispute (Sander & Goldberg, 1994).

### ***Self-Serving Bias***

The more convinced disputants are that they are in the right, the less motivated they are to make the concessions necessary to resolve their conflict. Self-serving biases contribute to disputants' sense of righteousness by focusing their attention on information that supports their point of view and by distracting them from attending to any disconfirming or contradictory information (Babcock & Loewenstein, 1997; Babcock, Loewenstein, Issacharoff & Camerer, 1995). For instance, one study of teacher contract negotiations found that teachers focused on compensation comparisons with districts where teachers received higher pay, and school boards focused on comparisons with districts where teachers received lower pay (Babcock, Wang & Loewenstein, 1996). This phenomenon might appear at first to be a simple case of strategic behavior. However, research has shown that parties are not easily dislodged from these self-serving viewpoints. Even when researchers reward disputants with extra money for accuracy, each side remains convinced that a neutral third party would tend to resolve the dispute in their favor (Babcock, et al., 1995; Babcock & Loewenstein, 1997; Loewenstein, Issacharoff, Camerer & Babcock, 1993). One debiasing intervention that researchers have shown to be effective in helping parties overcome self-serving biases involves asking each party to write down all of the weaknesses in its case. In this way, disputants are prompted to consider information that works against them as well as in their favor, and they develop a more balanced perspective of the problem (Babcock & Loewenstein, 1997). Self-serving biases are likely to be more acute when subordinates expect the leader to use an arbitration strategy, rather than mediation to resolve their dispute, because they are more focused on winning the case than finding a compromise solution. A medi-



ation approach, in contrast, places responsibility on the parties to cooperate with one another and enables the leader to work with the parties to broaden their perspective on the dispute and on options for its resolution. A mediation or med-arb strategy is suggested for helping parties to overcome the self-serving biases that impede their ability to resolve their own disputes.

### **Leadership Objectives**

Five leadership objectives are summarized in Table 2. The first is maximizing the perceived fairness of the process and outcome of the dispute. The second is maximizing the efficiency of the outcome of the dispute in terms of creating the most value possible from the perspective of the organization, the parties, and the leader. The third is to minimize the time costs of the dispute resolution process. The fourth is to establish a policy or precedent. The fifth is to redress an ethical violation or power imbalance.

#### ***Maximize Fairness***

Because they have ongoing relationships with the disputants and, generally, some stake in the outcome of the dispute resolution process, leaders may be more at risk of having their impartiality questioned than would most formal third parties. Perceived fairness, as explained above, has a significant effect on parties' satisfaction with and commitment to dispute resolution outcomes (Karambayya & Brett, 1989; Karambayya, et al., 1992; Tyler, 1986; Pruitt, et al. 1993). Research suggests that informal third parties (e.g., organizational leaders) who are more concerned about fairness tend to take more control in the early stages of the dispute resolution process, presumably out of a sense of responsibility or belief in their ability to ensure a fair solution (Sheppard, Saunders & Minton, 1988). Contrary to this intuition, however, disputants tend to judge processes that grant them greater process and decision control to be fairer than those that do not. To maximize the perceived fairness of the dispute resolution process and outcome, researchers of dispute resolution in organizations strongly advise mediation or med-arb strategies over an arbitration approach (Lind & Tyler, 1988; Karambayya & Brett, 1989; Karambayya, et al.; Shapiro & Brett, 1993; Brett & Goldberg, 1983).

#### ***Maximize Efficiency of Agreement***

As described in the section on General Advantages and Disadvantages, mediation processes tend to be superior to arbitration processes in terms of maximizing the flow of information about key interests underlying the conflict and the options for resolving the dispute in a mutually beneficial manner. Through a mediation strategy, rather than arbitration, leaders have a greater opportunity to work with the parties to develop creative solutions to the problems. Howard Raiffa (1983, 198) proposes, for instance, that informal mediators adopt the role of "contract embellishers" who use their privileged knowledge of the parties' beliefs, interests, and values to propose mutually beneficial improvements on the final agreement. By working jointly and individually with the parties to understand the problem and their concerns and to explore the tradeoffs associated with various potential solutions, the leader can use a mediation or med-arb approach to maximize the value to be gained by all from the problem-solving process. As summarized in Table 2, a mediation or med-arb strategy is suggested for maximizing the efficiency of the dispute resolution outcome.

#### ***Minimize Time Costs***

As indicated in Tables 1 and 2, mediation or med-arb strategies have been the favored strategies for dealing with the barriers listed and for maximizing the perceived fairness and thoroughness of the dispute resolution process. Mediation and med-arb approaches do have strong advantages in terms of the potential for confidence building and inclusiveness, information sharing and perspective taking, procedural justice, and outcome efficiency, but they are likely to carry substantially greater time costs for organizational leaders than would an arbitration strategy. Leaders need to consider whether the time investment required for a mediation or med-arb strategy is warranted given the scale and implications of the dispute (Carnevale, 1986). Moreover, there are many circumstances under which the speed and certainty of an arbitration strategy will outweigh the risks with regard to the disputants' satisfaction, relationship, and the potential for

dispute recurrence (Karambayya, et al., 1992). For instance, disputes that arise in the midst of an impending work delivery deadline may necessitate quick and decisive resolution. An arbitration strategy is suggested in cases where the leader seeks to minimize the time costs of the dispute resolution process.

**“The leader must also consider whether the organizational interest is best served by resolving the details of the particular dispute or raising the issue to a policy level.”**

#### ***Establish Policy or Precedent***

The leader must also consider whether the organizational interest is best served by resolving the details of the particular dispute or raising the issue to a policy level (Sander & Goldberg, 1994). Consider a dispute between a salesperson and her manager over the salesperson’s end-of-year bonus. If the dispute is kicked up to the department head, the department head could employ a mediation or med-arb strategy to help the salesperson and manager improve their working relationship and to identify a creative solution to the problem. But the department head might also deter-

mine that the interests of the department and organization would be better served if the bonus issue were not addressed as a stand-alone case for this one salesperson, but rather as a performance incentive issue for the department. If the department head perceives a need for a broader policy, it would make more sense for him or her to use an arbitration-type strategy in which all sides of the issues were presented and management made a policy decision. An arbitration strategy is likely to be more appropriate than a mediation or med-arb strategy for situations where the leader intends to use the dispute resolution process to establish a policy or precedent.

#### ***Redress an Ethical Violation or Power Imbalance***

Finally, there are certain cases where it is the leader’s responsibility to intervene in the dispute in such as a way as to correct or prevent unethical behavior or to support a disempowered party. Under these circumstances, there are three main limitations to mediation strategies. First, a mediation strategy, by definition, hands control over the decision-making process to the parties themselves. In the case of an ethical violation, this would be akin to including the fox in decision making over the security of the hen house. A mediation strategy could reward unethical behavior and do a disservice to the organization. Second, mediation is basically a form of assisted negotiation. If one party’s ability to negotiate for his or her own interests is impaired or compromised, then that undermines the legitimacy of the mediation process and outcome. Finally, mediation helps to resolve the problems of a particular set of parties. As in the situation where the leader’s objective is to make a policy decision, it may be more appropriate to sanction offenses publicly and categorically than to work out private solutions to the problem (Sander & Goldberg, 1994). For these reasons, an arbitration strategy is strongly suggested over a mediation or med-arb strategy when the leader aims to redress an ethical violation or power imbalance.

## **CONCLUSION**

Mediation, med-arb and arbitration are three dispute resolution strategies that are applicable to the challenges of leadership in organizational contexts. Each strategy has advantages and disadvantages, depending on certain barriers to agreement and leadership objectives. The analogy between formal third parties and the informal roles that leaders play is not perfect. The roles for leaders as third parties are much more open to interpretation and improvisation than are the roles for formal third parties. Still, the study of alternative dispute resolution processes offers leaders a great deal as they strategize about how to manage their own organizational problems. More work should be done to investigate the relevance and limitations of formal alternative dispute resolution processes for leadership, so that dispute resolution professionals can learn more from how organizational leaders resolve disputes.

## Note

A version of this paper will appear in Michael Moffitt & Robert Bordone (Eds.), **Handbook of dispute resolution**. San Francisco: Jossey-Bass, 2005.

## ENDNOTES

- 1 Gardner, 1990, 104. John W. Gardner, 1912-2002, was an author of multiple books on public affairs and leadership and served in leadership positions ranging from Marine Captain to U.S. Secretary of Health, Education and Welfare to President of the Carnegie Corporation of New York. In 1964, he was awarded the highest civilian honor in the United States, the Presidential Medal of Freedom.
- 2 For the purposes of this paper, I use the term organizational leader in the broad sense of someone assigned to a position of authority (e.g., plant manager, department head, director or executive) and/or someone who has emerged through normal interaction with organizational members to be mutually recognized as in a position of authority, regardless of formal title (Northouse, 2001, 2-6).
- 3 In some med-arb cases the mediator and arbitrator are different people, but research suggests that having the same person fulfill the mediator and arbitrator roles is as effective, if not more so, than having two people split the mediation and arbitration functions. For the purposes of this paper, I will discuss the med-arb model where one person fills both roles.

## REFERENCES

- Babcock, Linda & Loewenstein, George. 1997. Explaining bargaining impasse: The Role of self-serving biases. *Journal of Economic Perspectives*, 11(1), 109-126.
- Babcock, Linda, Loewenstein, George, Issacharoff, S. & Camerer, Colin. 1995. Biased judgments of fairness in bargaining. *American Economic Review*, 85(5), 1337-1343.
- Babcock, Linda, Wang, X.H. & Loewenstein, George. 1996. Choosing the wrong pond: Social comparisons in negotiations that reflect a self-serving bias. *Quarterly Journal of Economics*, 111(1): 1-19.
- Beer, Jennifer E. & Stief, Eileen. 1997. *The Mediator's handbook*. Gabriola Island, British Columbia: New Society Publishers.
- Brett, Jeanne M. & Goldberg, Stephen B. 1983. Grievance mediation in the coal industry: A Field experiment. *Industrial and Labor Relations Review*, 37:49-69.
- Burns, James MacGregor. 1978. *Leadership*. New York: Harper & Row.
- Carnevale, P.J. 1986. Mediating disputes and decisions in organizations. In M. Bazerman, R. Lewicki & B. Sheppard (Eds.). *Research on negotiation in organizations*. Greenwich, CT: JAI Press.
- Conlon, Donald E. 1988. The Mediation-intravention discussion: Toward an integrative perspective. *Negotiation Journal*, 2: 143-148.
- Conlon, Donald E., Carnevale, Peter J. & Murnighan, J. Keith. 1994. Intravention: Third-party intervention with clout. *Organizational Behavior and Human Decision Processes*, 57: 387-410.
- Conlon, Donald E., Carnevale, Peter J. & Ross, William H. 1994. The Influence of third party power and suggestions on negotiation: The Surface value of a compromise. *Journal of Applied Social Psychology*, 24(12): 1084-1113.

- Conlon, Donald E. & Ross, William H. 1992. Influence of movement toward agreement and third party intervention on negotiator fairness judgments. *The International Journal of Conflict Management*, 3(3): 207-221.
- \_\_\_\_\_. 1993. The Effects of partisan third parties on negotiator behavior and outcome perceptions. *Journal of Applied Psychology*, 78 (2): 280-290.
- Duffy, Karen, Grosch, James & Olczak, Paul. (Eds.). 1991. *Community mediation: A Handbook for practitioners and researchers*. New York: The Guilford Press.
- Gardner, John W. 1990. *On leadership*. New York: The Free Press.
- Karambayya, Rekha & Brett, Jeanne M. 1989. Managers handling disputes: Third-party roles and perceptions of fairness. *Academy of Management Journal*, 32(4): 687-704.
- Karambayya, Rekha, Brett, Jeanne M. & Lytle, Anne. 1992. Effects of formal authority and experience on third-party roles, outcomes and perceptions of fairness. *Academy of Management Journal*, 35(2): 426-438.
- Kolb, Deborah M. 1985. Roles mediators play: Orchestrator and dealmakers (Chapter 2). In *The Mediators*. Cambridge, MA: MIT Press.
- Kolb, Deborah M. & Sheppard, Blair H. 1985. Do managers mediate, or even arbitrate? *Negotiation Journal*, 3: 379-388.
- Lax, D. & Sebenius, J. 1986. *The Manager as negotiator: Bargaining for cooperation and competitive gain*. New York: Free Press.
- Lind, E. A. & Tyler, T. R. 1988. *The Social psychology of procedural justice*. New York: Plenum Press.
- Loewenstein, G, Issacharoff, S., Camerer, C. & Babcock, L. 1993. Self-serving assessments of fairness and pretrial bargaining. *Journal of Legal Studies*, 22(1): 135-159.
- McGillicuddy, Neil B., Welton, Gary L. & Pruitt, Dean G. 1987. Third-party intervention: A Field experiment comparing three different models. *Journal of Personality & Social Psychology*, 53 (1): 104-112.
- Neustadt, Richard E. 1990. *Presidential power and the modern presidents: The Politics of leadership from Roosevelt to Reagan*. New York: The Free Press.
- Northouse, Peter G. 2001. *Leadership: Theory and practice*. 2nd ed. Thousand Oaks, CA: Sage.
- Picker, Bennett G. 2003. *Mediation practice guide: A Handbook for resolving business disputes*. 2nd ed. Washington D.C.: American Bar Association.
- Pruitt, Dean G., Peirce, Robert S., McGillicuddy, Neil B. & Welton, Gary L. 1993. Long-term success in mediation. *Law & Human Behavior*, 17(3): 313-330.
- Pruitt, Dean G. & Rubin, Jeffrey Z. 1986. The Intervention of third parties. In *Social conflict: Escalation, stalemate, and settlement*. New York: Random House.
- \_\_\_\_\_. 1986b. *Social conflict: Escalation, stalemate and settlement*. New York: Random House.
- Raiffa, Howard. 1982. *The Art and science of negotiation*. Cambridge, MA: Harvard University Press.
- \_\_\_\_\_. 1983. Mediation of conflicts. *American Behavioral Scientist*, 27(2): 195-210.
- Ross, William H. & Conlon, Donald E. 2000. Hybrid forms of third-party dispute resolution: Theoretical implications of combining mediation and arbitration. *Academy of Management Review*, 25(2): 416-427.
- Sander, Frank E. A. & Goldberg, Stephen B. 1994. Fitting the forum to the fuss: A User-friendly guide to selecting an ADR procedure. *Negotiation Journal*, 10(1): 49-67.
- Selznick, P. 1957. *Leadership in administration*. Evanston: Row, Peterson.

- Shapiro, Debra L. & Brett, Jeanne M. 1993. Comparing three processes underlying judgments of procedural justice: A Field study of mediation and arbitration. *Journal of Personality and Social Psychology*, 65(6): 1167-1177.
- Sheppard, Blair H. 1984. Third party conflict intervention: A Procedural framework. In B. M. Staw & L. L. Cummings (Eds.), *Research in organizational behavior*. Greenwich, CT: JAI Press.
- Sheppard, Blair H., Saunders, David M. & Minton, John W. 1988. Procedural justice from the third-party perspective. *Journal of Personality and Social Psychology*, 54(4): 629-637.
- Thibaut, J. & Walker, L. 1975. *Procedural justice: A Psychological analysis*. Hillsdale, NJ: Erlbaum.
- Thompson, Leigh & Kim, Peter H. 2000. How the quality of third parties' settlement solutions is affected by the relationship between negotiators. *Journal of Experimental Psychology*, 6(1): 3-14.
- Tyler, Tom R. 1986. Procedural justice in organizations. In R. J. Lewicki, B. H. Sheppard & M. H. Bazerman (Eds.), *Research on negotiation in organizations*. Greenwich, CT: JAI Press.
- \_\_\_\_\_. 1989. The Psychology of procedural justice: A Test of the group-value model. *Journal of Personality and Social Psychology*, 57(5): 830-838.