

EXAMINING THE APPLICABILITY OF THE CONCEPTS OF APOLOGY, FORGIVENESS, AND RECONCILIATION TO MULTI-STAKEHOLDER, COLLABORATIVE PROBLEM-SOLVING PROCESSES

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I

INTRODUCTION

The Meridian Institute, an organization with expertise in designing, facilitating, and mediating collaborative problem-solving processes, works with parties to address conflicts and decisions associated with natural resources, science and technology, health, and security. Meridian's role is to help diverse parties understand and make informed and durable decisions about complex and controversial issues.¹ Meridian Institute's work with watershed groups in northern New Mexico and with the William Bridges' Transitions Framework offers an opportunity to explore the following questions from the perspective of a third-party facilitator:

- (1) Are apology, forgiveness, and reconciliation transferable to group processes?
- (2) What has to be done to create opportunity for reconciliation?
- (3) Can a durable solution be negotiated without both a public apology and an act of forgiveness or reconciliation?²

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1. Additional information about Meridian Institute can be found at <http://www.merid.org/>.

2. For purposes of this comment "apology" is "an admission of error . . . accompanied by an expression of regret," MERRIAM-WEBSTER'S COLLEGIATE DICTIONARY 58 (11th ed. 2005); "forgive" is "to give up resentment of or claim to requital for; . . . to cease to feel resentment against (an offender); [to] pardon," *id.* at 491; and "reconcile" is "to restore to friendship or harmony. . . [to] settle, resolve," *id.* at 1040.

II

ARE APOLOGY, FORGIVENESS, AND RECONCILIATION TRANSFERABLE TO GROUP PROCESSES?

In Meridian's practice, the terms "apology" and "forgiveness" have not been used directly, nor have groups been specifically requested to undertake these acts. Forgiveness and apology can be viewed as potential elements of a broader range of interests, emotions, and other factors that motivate individuals and groups. This spectrum includes historic, economic, social, political, process, emotional, and substantive factors. In the design and facilitation of a collaborative process, it is important to consider participants' needs for or related to any or all of these factors. Given these complex needs, consideration should be given on a case-by-case basis to whether apology or forgiveness are relevant to group-conflict resolution.

It is important to carefully examine both the potential benefits and, as Thomas Brudholm and Valérie Rosoux explore in their article in this symposium, the potential harms that may result from applying the concepts of apology and forgiveness to a group conflict.³ In a collaborative group process, it is the responsibility of the facilitator to inquire into and to understand the reasons participants may favor or oppose the pursuit of apology or forgiveness, and it is up to the individual participants whether, and on which points, to seek or resist these ends. The term resolution, which is by definition synonymous with reconciliation, is often used by third-party facilitators in group processes.⁴ In many, though not all cases, groups engaged in a collaborative process are striving for resolution.

The applicability of apology, forgiveness, and reconciliation to a collaborative group process can be examined through the example of community-based watershed groups⁵ working to identify mutually acceptable water-quality-improvement strategies. In 2004, Meridian Institute was asked to assess the feasibility of forming collaborative, community-based-watershed groups in northern New Mexico to develop plans to address water-quality problems and—if determined to be feasible—to facilitate the formation of those groups and plans. Early in the assessment process it became clear that the historical context was critically important and was one of the factors that had to be addressed.

Interviewees related how hundreds of years ago, the King of Spain granted land to Spanish colonists in the area that is present-day New Mexico.⁶ Some of

3. Thomas Brudholm & Valérie Rosoux, *The Unforgiving: Reflections on the Resistance to Forgiveness After Atrocity*, 72 LAW & CONTEMP. PROBS. 33 (Spring 2009).

4. See "reconcile," *supra* note 2.

5. Watershed groups are groups of individuals with an interest in a shared drainage basin, including local landowners, conservation groups, industry, recreational users, local, state, and federal agencies, and other relevant parties.

6. CAROL RAISH & ALICE M. MCSWEENEY, U.S. DEP'T OF AGRIC., GEN. TECH. RPT. RMRS-GTR-113, ECONOMIC, SOCIAL, AND CULTURAL ASPECTS OF LIVESTOCK RANCHING ON THE

these land grants were communal, which meant that multiple individuals and families collectively owned, worked, cared for, and reaped the benefits of parcels of land.⁷ When New Mexico became part of the United States following the Mexican American War, the United States committed to honor the land grant rights to land and water in perpetuity as part of the 1848 Treaty of Guadalupe Hidalgo.⁸ But land grantees were required to petition the government for title to their land, and some were not able to pay the required legal fees to maintain ownership.⁹ Other grants were denied because U.S. courts interpreted the concept of communal ownership differently than the Spanish settlers, and these lands were transferred to the U.S. government.¹⁰ This changed what had been, in some cases, a centuries-old relationship that people had had with the land, from one of collective ownership and responsibility to one requiring permission to use the land to sustain their livelihood by grazing. Since that time, the descendents of former land grantees have used both legal means and armed protest to try, in some cases successfully, to regain their land.¹¹

Although the focus of the watershed groups was current-day water quality rather than land ownership, the continuing impacts of the 150-year-old decisions and actions that resulted in many Hispano families' losing their lands had to be acknowledged in the assessment and in the collaborative process that followed. Because a significant portion of the watershed is comprised of public lands, participants in a collaborative watershed group would include both descendents of former land grant owners and federal employees that had assumed ownership of the ancestral land. Apology, reparations, and perhaps forgiveness may have been entirely appropriate in the context of these land ownership disputes; however, as noted above, water quality was the focus in the watershed groups, and the land-ownership disputes were being addressed in other forums. Therefore, in this case, a public apology and forgiveness were not discussed in the watershed groups. However, as discussed below, other strategies were implemented to address participants' desires to have historic injustices acknowledged.

ESPAÑOLA AND CANJILON RANGER DISTRICTS OF THE SANTA FE AND CARSON NATIONAL FORESTS: A PILOT STUDY 4 (2003), available at http://www.fs.fed.us/rm/pubs/rmrs_gtr113.pdf.

7. *Id.*; see also CHARLES L. BRIGGS & JOHN R. VAN NESS, LAND, WATER, AND CULTURE 3 (1987) (“[B]oth individuals and groups of settlers were awarded parcels of land.”).

8. BRIGGS & VAN NESS, *supra* note 7, at 4.

9. RAISH & MCSWEENEY, *supra* note 6, at 4–5.

10. *Id.* at 5.

11. See, e.g., LESLEY POLING-KEMPES, VALLEY OF SHINING STONE 231–39 (1999) (describing the Alianza movement during the 1960s, which forcefully sought to reclaim ancestral properties in New Mexico).

III

WHAT HAS TO BE DONE TO CREATE AN OPPORTUNITY FOR
RECONCILIATION?

A. Can a Durable Solution Be Negotiated Without Both a Public Apology and an Act of Forgiveness or Reconciliation?

In the case of Meridian's work in northern New Mexico watersheds, and in many other cases, the voluntary nature of participation, information exchange, and increased understanding of different points of view contributed to the ability of stakeholders with different perspectives to work together to develop plans and strategies to address problems of mutual interest. The process of convening and facilitating watershed groups in northern New Mexico did not feature public apology or forgiveness. However, the collaborative process did provide a forum for listening and being heard, bearing witness, giving voice to and acknowledging history and past injustices, and for documenting the social and cultural history of the watershed by incorporating language about traditional values and ways of life into the watershed-management document.

In some cases, providing a forum for acknowledging and documenting historic disputes—without an act of apology or forgiveness—is sufficient to enable groups to move from conflict to problem-solving and resolution. In addition, other incentives and disincentives can play a role in a participant's decision about whether to participate in a group process. For example, participation in the New Mexico watershed groups included the opportunity to apply for grant funding to implement agreed-upon strategies to improve water quality. Similarly, a collaborative, science-based approach can offer an alternative to continued conflict and litigation.

B. William Bridges' Transitions Framework

In his Transitions Framework, William Bridges describes the importance of paying attention to the internal, psychological transitions individuals experience in association with external change.¹² He outlines three phases of transitions: Endings, in which people let go of old ways of knowing and doing; the Neutral Zone, often a chaotic period during which the path forward through the external change may not yet be apparent; and New Beginnings, when people have internalized the external change and begin putting in place new ways of knowing and doing related to the change.¹³

One value a third-party mediator can bring to a conflict situation is simplifying complex issues to a degree that enables participants to envision a way forward—a New Beginning. Bridges does this with his theory of change and transitions, by naming and describing in a clear and concise way some of

12. WILLIAM BRIDGES, *MANAGING TRANSITIONS*, at x (1991).

13. *Id.* at 4–6.

the complex factors that motivate people to act and engage with others the way they do. For this reason, the Transitions Framework is one tool that can assist mediators and facilitators to understand the underlying interests, emotions, and concerns of all parties. By identifying losses experienced by participants and exploring strategies to address those losses, the Transitions Framework can help facilitators work with individuals and the collaborative group to seek ways to meet the needs of all group members through creative approaches. It may also be a tool to explore whether apology and forgiveness could help positively address a group conflict.

Meridian integrated Transitions concepts into three northern New Mexico watershed projects that investigated stakeholder interest in the formation of collaborative, multi-stakeholder watershed-management groups to address water-quality degradation. In the interviews conducted as part of a convening assessment, community members were asked about the history of the area to get a sense of Endings and to identify losses experienced that might need to be addressed. Stakeholders were also asked about their ideal vision for the future of the watershed to get insights into whether and how New Beginnings might be possible. During the process, the framework served as an additional tool that aided the facilitators in understanding the underlying reasons why some community members chose to participate in a group that explored and recommended strategies for changes in land- and water-management practices, while others did not. In addition, the framework was helpful in making sense of the sometimes chaotic “in-between” time in a group process—Bridges’ “Neutral Zone”—when the resolution to an issue is not yet clear.

IV

PERSISTENT NONVIOLENT CONFLICT WITH NO RECONCILIATION: THE FLEMISH AND WALLOONS IN BELGIUM

Robert Mnookin and Alain Verbeke’s article in this symposium, *The Flemish and Walloons in Belgium*, is a classic situation assessment.¹⁴ It provides detailed information about the history of the conflict, the substance of the issues, and the major parties involved. It examines historical, cultural, and economic factors as well as a range of options honoring these factors that parties may consider for their future and that of a united Belgium. Finally, the article raises key questions to be considered in relation to each of those options.

In this case, the Bridges’ lens can complement the comprehensive situation assessment that has already been done and serve as a tool to further examine the internal transitions that accompany the external changes being experienced by the parties. Using the Bridges’ Transitions concepts, one could conceptualize and articulate the Flemish early experience of economic and social inferiority and the Walloons’ more recent economic decline in terms of “losses” and thus

14. Robert Mnookin & Alain Verbeke, *Persistent Nonviolent Conflict with No Reconciliation: The Flemish and Walloons in Belgium*, 72 LAW & CONTEMP. PROBS. 151 (Spring 2009).

think through potential ways to replace, restore, or otherwise address those losses.

V

CONCLUSION

Reconciliation, defined as the action of resolving,¹⁵ is clearly applicable to group-conflict resolution. Questions about the applicability of apology and forgiveness to group conflicts, and about what is necessary to achieve durable solutions, must be considered by practitioners of collaborative problem-solving processes early on, as part of an assessment about what type of decisionmaking process is appropriate. As part of such an assessment, a facilitator should consider a range of factors, including historic, economic, social, political, process, emotional, and substantive factors. The appropriateness of apology and forgiveness in any given situation can be assessed as part of this process of striving to understand participants' needs.

William Bridges' Transitions Framework is a tool that can aid facilitators in assessing participants' needs and in identifying strategies to meet them. In determining the applicability of apology and forgiveness to intergroup conflicts, a facilitator should understand the preferences of a diverse range of potential participants regarding, as well as varying cultural perceptions of, these concepts. Forums that allow for dialogue, information-gathering and exchange, active listening, increased understanding, relationship building, and collaborative approaches to meeting mutual needs can pave the way for reconciliation either with or without apology and forgiveness.

15. *See supra* note 2.