

## FORGIVING IN MEDIATION: WHAT ROLE?

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### ABSTRACT

Forgiveness is rarely mentioned in mediation of civil disputes, yet forgiveness, when offered, may build relationships making reconciliation possible. The paper proposes alternatives to current mediation terminology in which forgiveness may be implicit, suggests bridges for an interdisciplinary language barrier, and critiques a definition of forgiveness for use in mediation of civil disputes.

The role of a mediator accompanying disputants on a journey from estrangement to hope is that of a companion on the way. A brief examination of the influence of faith suggests forgiving does not require faith to be recognized as beneficial to humanity, though religious belief encourages the practice.

The legal system of which mediation is a part has not yet apprehended and applied forgiveness as a primary concept, nor are apologies ordinarily part of resolution of most disputes.

Mediation is a specialized occupation, yet mediators need not be psychologists, clergy, or lawyers to fulfill the role. The mediator, aware of professional distinctions and boundaries, respects the competencies of the parties in dispute, encouraging disputants to see themselves, for themselves, the best alternative to conflict. Mediators bridge and overcome inter-disciplinary compartmentalization drawing from professions what their occupation cannot legitimately claim as their own. The mediator must know who she is to allow disputants to comprehend options for settlement.

Enright's Process Model of Forgiving Another: cognitive, behavioral, and affective phases, are applied to the context of civil mediation, recognizing the mediator functions as a pragmatist encountering most clients for a brief period within the history of conflict. Mediators see and hear much in brief encounters, assessing which part of their polymorphic role may transcend the barriers of time and the wounds of the parties in conflict. Mediation, as occupation or un-designated role, is an art supported by science.

Learning objectives:

- A. Illustrate the usefulness of "forgiving" as a concept in mediation;
- B. Present a definition of forgiveness in civil mediation transcending cultural and religious differences;
- C. Demonstrate the application of Enright's Model of Forgiving Another to civil mediation.

## 1. INTRODUCTION

“I still have my moments of rage. I remember crossing the campus of a high school in California . . . The place reminded me of Julie’s high school. Suddenly this rage hit me . . . I do have setbacks, even when I’m sure I want to forgive. That’s probably why I can’t handle that word “closure.” I get sick of hearing it. The first time someone asked me about closure was the day after Julie’s burial. Of course I was still in hell then. In a way, I still am. How can there ever be true closure? A part of my heart is gone . . . It’s a struggle, but it’s one I need to wage. In any case, forgiving is not something you just wake up one morning and decide to do. You have to work through your anger and your hatred as long as it’s there. You try to live each day a little better than the one before.”

-Bud Welsh, whose daughter, Julie, died in the Alfred P. Murrah Building that was bombed by Timothy McVeigh on April 19, 1995 (Arnold, 2000).

Christine Boesch (2003) ends her thesis, “*Mediators Reflect on Forgiving: An Attitudinal Survey*” with Bud Welsh’s eloquent quotation. Mr. Welsh may have nothing to mediate though he is a person seeking a way to forgive, yet the experience he relates describes the dynamics of justified anger and acknowledges a need for healing that a forgiving spirit gives the forgiver. Wishing to forgive does not make it so. Forgiveness is a process requiring time.

Mediation should promote *forgiving* in the search for reconciliation. This proposition will not be found in dispute resolution parlance. The words echo Christian theologies. What role does forgiving have in mediation in a multi-cultural environment? Should theology have credence in considering introduction of forgiving in mediation? <sup>1</sup>

The near absence of the word *forgiving*, from dispute resolution literature and training materials suggests the term is supplanted by other words, a definition of *forgiving* is illusive, and there may be discomfort with supposedly theological language (terminology associated with faith). Despite this, *forgiving*, by whatever name, is essential to a mediator’s practice. Forgiving is embedded in the very purpose of dispute resolution.

## 2. PHILOSOPHICAL OBSERVATIONS

If dispute resolution is to flourish, the field should embrace an interdisciplinary perspective. The meaning of life, and of dispute resolution, is not the exclusive property of any compartmentalized academic discipline or single philosophy. Mediators function in a culture preoccupied with “the bottom line.” We are pragmatists.<sup>2</sup> Though less so, some of us are captivated by positivism.<sup>3</sup> The consequence of this positivistic dualism of value and science is that

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<sup>1</sup>I write from the perspective of a Roman Catholic with seven years experience in parish ministry and hospital chaplaincy. I have practiced law for 30 years, including eight years as mediator.

<sup>2</sup> According to Schillebeeckx, (p. 905, 1980), pragmatism is a trend - an often an implicit philosophy - which does not raise the question of total meaning, or at any rate holds that this question cannot be answered. Therefore it leaves the question of theoretical truth out of account. The truth (or better, the validity) of a conviction or theory then lies in the possibility of using it for a particular purpose. Pragmatism attempts to cope with difficulties and problems in society step by step as they arise, with a view to a better society, the content of which is left open.

<sup>3</sup>Positivism (Schillebeeckx, p. 905) is a trend in scientific study which is at least an implicit philosophy. It puts forward the view that the only truth is scientific truth which is empirically verifiable. Thus no communication of truth is really possible outside the sciences. It also argues that the sciences are “value-free;” in other words, in scientific investigation it only accepts intrinsically scientific values, and leaves external values out of account. Positivism in no way denies that the choice of the object for investigation and the use of the results achieved imply values (or non-values) extrinsic to science. However, positivists overlook that the fact that what are called scientifically established “hard facts” and “basic propositions” are governed by the historical character of the object perceived, and the historical and social position of the perceiver. In other words, positivists forget that all scientific theories are also subject to a historical hypothesis. Before humanity could speak in our cultural history of

the understanding of meaning and philosophy, politics, ethics and religion are kept apart from science. When this happens they become a private concern and run the risk of becoming dominated by irrational forces. Positivism is a form of semi-rationality. Without being aware of it, we lose the rich narrative of human experience, rushing toward “settlement.” Mediators should reflect on the meaning of time so that we are not like the person who asked Bud Welsh the day after his daughter’s funeral if he had reached “closure.”

The compulsion to rush toward “settlement” is well known to practitioners. Time is precious, funds are limited, and the temptation to think of settlement rather than resolution as the goal militates against ideal outcomes. We do the best we can. Forgiving fades into the subconscious. Time constrains, compelling us to settle or fight. Some disputes may only be managed. Others may only be settled because there is neither an ongoing relationship between the parties nor a need or desire for there to be one. Yet there remains more than a function or role for forgiving, particularly in conflicts which cannot be settled with dollars.

The experience of mediators, a growing body of psychological research, and the theological perspectives of world religions suggest *forgiving* should be introduced to parties in dispute to assist them not only to re-interpret the experience of conflict, but the process of conflict resolution itself. Despite this, mediators do not use the word *forgiving*, nor do many consciously incorporate the term in mediation practice.<sup>4</sup>

Mediators should consider using *forgiving* as a central concept for establishing and maintaining a negotiating environment most likely to lead to settlement, if not reconciliation. How they should do this is controversial.<sup>5</sup>

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“sciences,” there was the awareness that we “know something.” Therefore the scientific impulse is simply a particular form of knowledge and not an independent autonomous principle, but a specification within a cultural historical reality. This in itself indicates that science, as a particular form of knowledge, is itself historically conditioned. In that case, it is also necessary to reflect on the cultural conditions in which scientific forms of knowledge function. Reflection on the theory of science must include the cultural context of its considerations.

<sup>4</sup> Boesch’s (2003) survey of Southern California mediators found only 12% consciously incorporated forgiving in their mediation practices. An additional 6% indicated willingness to consider doing so.

<sup>5</sup> Whether *forgiving* should be introduced in mediation at all is questioned by some mediators. (See Boesch, 2003). Philosophical objections include that of Nietzsche (1887) who claimed that *forgiveness* is an expression of weakness. His view may be countered by making the distinction between genuine and pseudo forgiveness. Genuine *forgiving* requires strength and courage. There is nothing cowardly about recognizing an injury and choosing to respond by *forgiving* the person responsible. There is no doubt that introduction of *forgiving* should not be a universal practice in all mediations, and perhaps not in a majority of of them. The need to be conscious of the concept and the desirability of introducing *forgiving* in certain mediations remains.

This paper proposes alternatives to current mediation terminology in which *forgiving* may be implicit, suggests bridges for an interdisciplinary language barrier, and critiques a definition of *forgiving* for use in mediation.

The paper outlines, for mediation, a rationale for *forgiving*, theological support for *forgiving*, a working definition of *forgiving*, and hints at methods for introducing *forgiving* as part of the process. ; Although I maintain that *forgiving* is essential in the practice of mediation, I quickly acknowledge *forgiving* is a complex emotional construct occurring after persons pass through a process involving injury and anger. *Forgiving* is a part of a healing process which cannot be started and finished in most mediation. Still it's benefits may be recognized by mediators so that its benefits may be claimed by disputants. If *forgiving* cannot be introduced in mediation to assist resolution of the core conflict, *forgiving* may be used to promote healing of wounds inflicted in the ritualized combat which has preceded mediation. This is particularly true of the litigated case.

### 3.1 A RATIONALE FOR USING *FORGIVING* IN MEDIATION

All mediators and disputants have beliefs and emotions. Whether an individual believes in God or not, it is possible to present a nested rationale for using *forgiving* in mediation. The following propositions do not require belief in God, nor do they violate the sensibilities of believers.

Hanna Arendt (1969) suggests the two most persistent challenges of human existence are that we were created with the power to remember the past, but left powerless to change it; and we were created with the power to imagine the future, but left powerless to control it.

The only effective response to the first challenge is to use the faculty of forgiveness, and the only effective response to the second challenge is the ability to make and keep promises.

Reflecting on these points, Smedes (1984) adds that none of us could ever cope well with the good and evil things we can imagine in the future unless we faced them with hope. Thus, forgiveness and hope are vitally linked to each other.

The estrangement of conflict is the occasion for the journey toward hope in mediation. Hope is realized by traveling the *forgiving* path. Reflecting on the ever illusive ideal guides the sojourners toward the destination: reconciliation. Hope provides the energy to keep traveling on this journey - a journey not necessarily traveled in sequence.

The role of the mediator on this journey will vary, for the mediator is much like Joseph Campbell's *Hero With a Thousand Faces* (1949) or *Proteus* in Greek mythology. We are perceived differently by various participants in mediation. Client views of mediators are not always congruent with our idealistic self-concepts. Mediators should be *facilitators of competencies*. As such, the mediator assists the parties in dispute to identify those things which stand in the way of resolution. The ability to *forgive* enables the parties to make and keep promises. This function helps fulfill his role as a *companion on the journey*. Simply said, the mediator is a friend. *Friend*, like *forgiving*, is not always a comprehensible term as we navigate turbulent oceans in wonder.

Mediation is a craft. It is a journey in itself, informed by the experience not only of the mediator, but of the disputants he accompanies on the journey from estrangement to hope. If a mediator's role is to facilitate the exchange of promises, the role is that of a *friend*. A mediator need not be a licensed psychologist, nor clergy, yet the friend/mediator is both aware of human emotions and pastoral in attitude. While the mediator must be aware of professional distinctions and boundaries, remembering when mediating that a friend respects the competencies of the parties in dispute encouraging disputants to see for themselves the best alternative solution for conflict.

### 3.2 THEOLOGICAL SUPPORT FOR USING *FORGIVING* IN MEDIATION: TOWARD A THEOLOGY OF *FORGIVING*

Is there is a definition of *forgiving* that is independent of the belief structure of the person that is applying the concept? The question is unanswered. Despite this there is sufficient agreement in the major faith groups to suggest substantial, if not complete agreement that *forgiving* is a virtue if not a religious obligation.

Knowing what it is to forgive and be forgiven is an interpersonal experience irrespective of individual belief

systems. For persons of faith, this horizontal interrelationship also has a vertical dimension - a relationship with God by whatever Name - which should inform each person's life experience. The experience of forgiveness and the ability to forgive is more than a moral virtue in the Aristotelian sense<sup>6</sup>; it is more than therapeutic in a psychological sense; for Christians forgiveness is the bedrock of reconciliation with God and humanity in the theological sense and a way to realization of eschatological hope. Forgiveness represents the possibility and reality of change and transformation of the individual in relation to others and others in relation to the individual, as well as to God.

*Forgiving* maintains *covenants* – special relationships beyond the four corners of a contract. When conflicts arise between parties to a *covenant* the special forgiving relationship sustains and heals the parties in *the covenant* so that they may learn from the experience strengthening each other and the relationship rather than harming another. *Forgiving* de-escalates conflict, promoting communication. *Covenants*, once established, empower even the weaker of the parties to be heard and respected. Popular usage tends to restrict *covenants* to marriage, but *covenant* has broader significance when seen as a component of all relationships.

*Forgiving* is a developmental process. It is an experience of growth in a sometimes unconscious quest for maturity. The Abrahamic religious traditions: Judaism, Christianity, and Islam, all affirm the importance of forgiving for and by their followers.

*Yom Kippur*, The Day of Atonement in Judaism encourages forgiving in a way not seen elsewhere. The ritual act of asking forgiveness of one another is both individual and communal. A person asks, "Will you forgive me?" To which the person queried responds "Yes. Will you forgive *me*?" The respondent's intonation implies the depth of his own sin is greater than that of the person who first asked for forgiveness, clearly suggesting refusing to forgive would be unthinkable because no one is righteous.

Building on Judaism, the Christian tradition is replete with stories of forgiveness in the journey of humanity toward reconciliation with God and with one another.

Adam and Eve (Genesis 3:8-13) betray God's trust, then hide from the Transcendent. Adam blames Eve though both should have known what they were doing in violating God's instruction. God forgives the act of betrayal, but the story is silent about the process Adam and Eve went through to forgive each other. The rest of the Biblical journey is about this very theme. The first Biblical story is a tale of grace and judgement; mercy and justice; forgiveness - and consequences.

Joseph is sold into slavery by his brothers ( Genesis 37:2 f.), yet he forgives them and saves them from starvation. This happens over years in unanticipated events. When taken as a whole the Joseph stories have interesting behavioral aspects found in mediation. These are a study in themselves of the consequences of *forgiving* and the journey in search of the ability to forgive.

A New Testament narrative which suffers from over familiarity, but constricted understanding is the story of the Prodigal Son ( Luke 15:11-30). The forgiveness of God represented by the father of the two sons is well known. Less frequently explored are questions of whose repentance, forgiving, and reconciliation is involved. Whose condemnation and anger, and whose love and mercy are implied by the story beyond that of God?

How often are people to forgive? Not seven times, but seventy times seven, according to Jesus (Mt. 18:21-22). The number is not to be taken literally or by limitation, but rather to emphasize that the realm of God is comprehended in the life- long practice of *forgiving*. The embodiment of forgiving is both internal and eternal.

The Lord's Prayer (Matthew 6:9-13; Luke 11:2-4) whether translated forgive us our *trespasses* or *debts*, reveals an understanding of the centrality of *forgiving* in Christianity.<sup>7</sup> Forgiving is made divine and human. As we

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<sup>6</sup> See Simon, Y. (1986) for an interpretation of Aristotle's definition of what constitutes a moral virtue. Enright & Fitzgibbons (2000) rely on his framework in applying an Aristotelian analysis to their definition of forgiveness. The result appears in Appendix A.

<sup>7</sup>The ending of the Lord's prayer - "For the kingdom, the power and the glory are yours, now and for ever"

forgive, may we be forgiven. Attaining full reciprocity in forgiving is *reconciliation*.<sup>8</sup> *Repentance by the offender* includes: (1) offering repentance for the wrong, (2) feeling gratitude that revenge-in-kind is not in the offing, (3) developing empathy for the victim's suffering, and (4) hoping for reconciliation with the victim. See *Is there forgiveness in politics?* (See Ch. 11, p. 136, Enright & North, 1998). While forgiving may be unilateral, reconciling is always reciprocal and interdependent.

Without elaborating here, further demonstrations of the essential nature of forgiving in Christianity are explicit in the Sacramental theology of the Catholic Church and the documents of The Second Vatican Council.

I cannot do justice to Islam in describing forgiving within that tradition. I can only say that distortions of Islam in news coverage and by governments who presume to cloak actions which violate that faith's traditions for the purpose of legitimizing acts contrary to what Islam actually teaches have unfairly portrayed Islam to non-adherents. Mediators with clients of this faith should carefully consider any attributions they make.

### 3.3 A WORKING DEFINITION OF *FORGIVING* IN MEDIATION

*Forgiving* is not easily defined for research purposes. Once defined, confounding variables complicate measurement. Working definitions of the term are illusive. Only recently has psychology begun to generate empirical studies of forgiving as a construct. Enright and Fitzgibbons (p. 24, 2000) define *forgiving* as follows:

People, upon rationally determining that they have been unfairly treated, forgive when they willfully abandon resentment and related responses (to which they have a right), and endeavor to respond to the wrongdoer based on the moral principle of beneficence, which may include compassion, unconditional worth, generosity, and moral love (to which the wrongdoer, by nature of the hurtful act or acts, has no right).<sup>9</sup>

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standard in Protestant books of worship for centuries and added to the Roman liturgy by Pope Paul VI, was already in use at the time of the *Didache*, c.100 C.E. (The *Didache* is the earliest extant Eucharistic liturgy.) The phrase comes from David's final prayer; see I Chronicles 29:11. Note that the form of the prayer is as Jewish as it is Christian.

<sup>8</sup>According to Donald Shriver, professor of Christian ethics at Union Theological Seminary, the biblical tradition requires both *forgiveness* by the victim and *repentance* by the offender for there to be *reconciliation*. *Forgiveness* and *repentance* go through four stages to make *reconciliation* possible.

*Forgiveness by the victim* includes (1) openly naming the wrong, (2) drawing back from revenge-in-kind, (3) developing empathy for the offender, and (4) extending to the offender a tentative hand toward renewed community still in the future.

<sup>9</sup>This definition follows that of North (1987).

This definition of *forgiving*, which took fifteen years of research to develop, expresses an ideal, rarely achieved, because people are imperfect. Forgiving is both a goal and a journey.

*Forgiving* is a goal likely to degenerate into meaning whatever any person wishes it to mean. Such relativism is to be resisted so that reason may prevail to avoid the chaos of definitional drift (Enright and Fitzgibbons, 2000).<sup>10</sup>

Without applying such criteria, *forgiving*, as a construct for empirical study, will be further compromised. Defining forgiving requires a knowledge of the meaning of *forgiving* in theology, philosophy, psychology, sociology, and various applied professions like social work, medicine, psychiatry, and clinical psychology. One cannot remain locked into a definition provided by a single discipline. Consequent distortions in measurement are the likely result. So long as the disputants agree on the substance of *forgiving* in the context of a particular dispute, the parties in mediation may claim the benefits of *forgiving* without accepting a rigid definition provided by other sources.

### 3.4. A DEFINITION OF *FORGIVING* FOR MEDIATORS

Christine Boesch (2003), inspired by the Enright definition, administered her own attitudinal survey of Southern California mediators to arrive at a mediator-driven definition of forgiving:

Forgiving is a wise, freely chosen option that fosters the dignity of persons who forgive. It is a strength in relationship to the other, a supplement to a pursuit for justice, and an expression of self-control over justifiably angry and/or vengeful impulses.

Boesch found mediators in her study, with only slightly less concurrence, understand forgiving as:

Based on self-respect and extended directly to the other with the goal of gaining a fresh start with the person while continuing to remember the egregious episode. In the process, the forgiver becomes more empathetic toward the other and more accepting of the complexities of human behavior.

Less adequate but shorter ideas of *forgiving* which may be helpful to mediators including some well-worn, trite-but-true phrases: “Live and let live,” or “*Forgiving* is charity in the face of injustice.” Allowing someone to save face, though not *forgiving* as such, may contribute to creating a *forgiving* atmosphere. When confronting every real or supposed wrong point by point will only antagonize a person, an opponent may promote settlement of a dispute by ignoring behavior. *Forgiving*, though, is not avoidance.

The point of attempting a mediator-driven definition is to make a concise yet comprehensive statement of the construct *forgiving* which challenges mediators to reflect. Obviously, the definition itself is unlikely to be presented to parties in dispute. The definition requires translation into short bits if it is to effectively be applied in practice. A mediator guided by the Boesch mediator-driven definition must remember that it assumes a social-cognitive development of *forgiving*.

Enright & Fitzgibbons’ (2002) initial efforts to study the social cognitive development of forgiving identified six “styles” of forgiveness. Though these styles seem to be a progression, they are not. One does not lead to another as part of a growth process, though they may. Mediators may find these styles a useful typology when listening to

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<sup>10</sup> Definitional drift is inevitable. Disciplinary perspectives differ. Cultural expectations vary. Even so, perhaps definitional drift may be minimized by reflecting on the perspectives of psychology, philosophy, and theology on the impact of forgiving in human narratives. Enright and Fitzgibbons (p. 321, 2000) propose five criteria to be applied by anyone researching in this area before considering developing any new “forgiveness scale:” (1) Why is there a need for a new scale?, (2) Does the new scale correct some fault in the older scale or scales?, (3) Is the flaw in the older scale (a) embedded in the definition and operationalization, (b) contained in the structure of the scale itself, or (c) observed within the psychometric properties of the scale?, (4) How will the new scale correct the flaw or flaws?, (5) Beyond correcting the existing flaws, does the new scale add something to definition, scale structure, or psychometric properties that the older scales do not possess?

parties discussing their disputes. They provide clues to what may promote settlement or impede negotiations. The styles may also suggest the potential commitment of a party to an agreement.

All but Style 6 are considered cognitive distortions of the essential meaning of *forgiving*. *Forgiving* is never a requirement for reaching settlement in mediation. Many mediated agreements are made without conscious acknowledgment of *forgiving* by any party. Even a distorted form of *forgiving* offers a reference point from which the mediator may work to facilitate an exchange of promises.

#### **4.1. Styles of Forgiveness Reasoning About The Conditions Under Which a Person Will Forgive:<sup>11</sup>**

##### **Style 1 Revengeful Forgiveness. (Confuses forgiveness with revenge)**

“I can forgive someone who wrongs me only if I can punish him or her to a similar degree to my own pain.”

A party in mediation with this style is too angry to forgive. The perceived need for revenge is obvious. If both parties in dispute (assuming a dyad) are seeking revenge only a substantial threat of dire consequences presented by a third party or the expiration of time required to complete an essential task might motivate settlement. With or without settlement, the conflict persists. Seeking revenge is tantamount to hatred of self, if not of the other, with the potential for escalation. An opposing party who recognizes this style may consider, after hearing the expression of anger, apologizing, acknowledging the pain the conflict has caused the Style 1 disputant, if not (yet) able to apologize for the underlying cause of the dispute. Genuinely expressed apology may de-escalate, if not disarm an opponent, especially if there are immediate, concrete actions which may be taken to demonstrate good faith. Taken literally, this Style leads to painful, preposterous results: an eye for an eye, or a tooth for a tooth, leaves all parties blind, toothless and in a cycle of reciprocal violence.

##### **Style 2 Restitutorial/Compensational Forgiveness. (Confuses forgiveness with restitution or compensation)**

“If I get back what was taken away from me, then I can forgive.” or “If I feel guilty about withholding forgiveness, then I can forgive to relieve my guilt.”

Restitution or compensation, without more, may settle a dispute. If no restitution is forthcoming, the party who might forgive may remain angry. It may be possible to encourage the injured party to think about the benefit *he* may experience by forgiving because of a reduction of anger and awareness that forgiving is part of a moral response.

##### **Style 3 Expectational Forgiveness. (Confuses forgiveness with obligation rather than a loving response to another).**

“I can forgive if others put pressure on me to forgive. It is easier to forgive when other people expect it.”

Group influence may be positive or negative depending on the quality of advice or influence. Pressured forgiving is not *forgiving* at all. A coerced settlement in a litigated case may illustrate expectational “forgiving,” raising professional ethical issues, or it may simply be a best alternative. Group pressure may be from family, co-workers, or members of an association. Mild influence by peers or family can be positive, but should not override other issues or interests. A person who gives in to pressure from group influence without being convinced that forgiving is a good idea may retain anger but deny doing so.

##### **Style 4 Lawful Expectational Forgiveness. (Confuses forgiveness with obligation rather than a loving response to another).**

“I forgive when my religion demands it.” [Note that this is not Style 2 in which forgiveness is to relieve one’s own guilt about

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<sup>11</sup>The Styles and illustrative quotations are found in Enright & Fitzgibbons(p. 55, 2000).

withholding forgiveness.].

Not all reasoning in Style 3 involves religion. Expectational forgiving may exist in any philosophical, or even a contractual milieu. Style 4 “forgiving” is motivated by a sense of obligation, sometimes undercutting the free action of the party who thinks he *must forgive*.

Forgiving from religious motivation, when based on a clear understanding of the principle of moral love is a form of Style 6, Forgiveness as love. When Style 4, Lawful expectational forgiveness occurs, the distorted forgiveness is out of *grim obligation*, rather than the wise obligation of Style 6. In rare instances a mediator may be able to help the person see the principle behind the law (a religious obligation), understand subtle distinction, and cognitively process before moving ahead. Most mediations do not provide this opportunity because of time, training and inclination of mediators or parties.

**Style 5 Forgiveness as Social Harmony. (Confuses forgiving with an outcome-based reinforcement system rather than a moral principle as an end in and of itself).**

“I forgive when it restores harmony or good relations in society.” Forgiveness decreases friction and outright conflict in society. Note that forgiveness is a way to control society; it is a way of maintaining peaceful relations.

This is the first Style at which the person sees *forgiving* as a moral principle. This Style differs from the first four Styles because the others are externally motivated. Style 5 has more of an internal motivation: forgiving is good in and of itself. Although the person believes in forgiving for its own sake, he also believes that forgiving is worthwhile because of the good it may produce in families, groups, and societies. By implication, Style 5 forgiving, when done repeatedly without positive results, may grow tired of doing so. Pragmatic expectation, when disappointed by unacceptable response, may cause the person to become angry and frustrated. If the person can recall other advantages to forgiving, it’s possible that the anger will be ameliorated.

**Style 6 Forgiveness as Love.**

“I forgive unconditionally because it promotes a true sense of love. Because I must truly care for each person, a hurtful act on his or her part does not alter that sense of love.” This kind of relationship keeps open the possibility of reconciliation and closes the door on revenge. Note that forgiveness is no longer dependent on a social context, as in Style 5. The forgiver does not control the other by forgiving; he or she releases the other.

Style 6 is grounded on the moral principle that forgiving is intrinsically valuable because it allows for the expression of moral love regardless of circumstances. The forgiving person is less interested in the good outcomes and is more interested in goodness itself. The forgiving person is not dependent on the responses of others. Even if the forgiving is rejected, the forgiving person is able to go ahead with life, knowing he has offered something valuable to those forgiven. Reasoning this way, the forgiving person is more likely to persevere with forgiveness, reaping the benefits of reduced anger, anxiety, and even psychological depression.<sup>12</sup>

**5.1. INTRODUCING FORGIVING IN MEDIATION**

The prominent role of forgiving in the major faith groups suggests there is a universally accepted basic understanding of *forgiving* across religious lines. The concept has existed for thousands of years in all types of cultures. This reality establishes the pertinence of introducing forgiving in mediation

**5.2. PREMISES**

Introducing *forgiving* in mediation requires awareness of certain conditions summarized by Boesch (pp. 86-87), who proposes a preliminary structure for a process model to introduce forgiving in mediation. She works from six premises:

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<sup>12</sup>See pp. 61-64, Enright & Fitzgibbons (2000) for a brief discussion of the cognitive patterns that make Style 6 possible.

- 1) Forgiving is accepted as a multidimensional concept. It is not dismissed out-of-hand by the lack of or challenge to one, or even several, of its attributes.
- 1) Forgiving is not presumed complete on the basis of a single attribute.
- 1) Forgiving is a social and civic virtue that can be facilitated and expressed between individual persons and between groups of people, the complexity of which grows with numbers but does not dilute its relevance. Private forgiving, to be genuine, is carried into social interactions whenever prudent and possible.
- 1) Forgiving, in its component parts, contains terminology that remains respectful of its spiritual and religious roots while making its potential benefits available to all regardless of the specific devotions that will enhance and nuance it.
- 1) Forgiving is distinct from yet inextricably tied to concepts of justice. In its most strict sense, an injustice must be named before forgiving the lapse becomes one option among others. Experientially, however, people may seek to forgive when deeply disturbing, painful clashes with another cannot be objectively classified as injustices. It remains a valid option under such circumstances.
- 1) Forgiving is a process that can be taught and will be individualistically paced. It cannot be programmed to completion within the confines of an average, single mediation *per se*.

### 5.3. LIMITATIONS

Boesch suggests four limitations associated with translating forgiving into mediation:

- 1) The milieu of cases is conflicted and highly charged emotionally. New injustices can be injected and old injustices given new life. Therefore, any theory of forgiving in mediation must be concerned with timing.
- 1) Since the usual focus of a mediation is on the issues in a dispute, it is all the more unlikely that forgiving in the face of a genuine injustice will be complete in a matter of hours. Mediation is not the equivalent of a forgiveness intervention. Time all but forbids introduction of forgiving as an intervention.
- 1) Clients in mediation are not volunteering to attempt forgiving when seeking the professional services of mediators nor are they necessarily positive about it.
- 1) Though a positive influence on the parties in dispute, settlement itself does not result in forgiving. Any theory involving introducing forgiving in mediation must not depend on settlement as a criterion for validity.

### 6.1 A MODEL FOR SUPPORTING FORGIVING IN MEDIATION

Boesch's Model for Supporting Forgiving in Mediation is presented below along with her conjectured parallels (pp. 89-90) between mediation and Enright's "Process Model of Forgiveness." Cross references are to The Enright Model appearing in Appendix B:

#### **Determining History of the Conflict and Begin to Build Trust**

Use the client's anger as a way to determine underlying interests. [See Enright's Forgiveness Model: Uncovering Phase 2, 4]

Explore consequences of conflict in terms of energy allocation and mental focus. [See Enright's Forgiveness Model: Uncovering Phase 5, 6]

Transition to future orientation.: Explore the values important to the client, 'as' or 'if' comparisons are made to the other party, to later incorporate into mediation sessions. Determine clients' perspective for what is a fair outcome. [See Enright's Forgiveness

Model: Uncovering Phase 7, 8]

### **Opening Statements**

Have each client give the history of the conflict in terms of what has been tried to resolve it and why, in their view, strategies did not work.[See Enright's Forgiveness Model: Decision Phase 9].

Be alert for opportunities that open an "other" orientation.

Highlight any points of connection or common ground to lower the alienation between parties.

### **Establishing Commitment to the Ground Rules for the Mediation**

ities for mutual forgiving. Probe for issues that parties want to "put to rest." [See Enright's Forgiveness Model: Decision Phase 10]

Emphasize openness to options that are future-oriented in contrast to past-punishing. [See Enright's Forgiveness Model: Decision Phase 10]

Gain commitment to ground rules that serve to preserve dignity and self-respect for all involved. [See Enright's Forgiveness Model: Decision Phase 11]

### **Seeking Resolutions and Agreements**

Explore all valid ways to re frame the issues, interests, and needs of the parties. [See Enright's Forgiveness Model: Work Phase 12].

Expand contexts for "causative" factors; restrict it for "victimizing" factors. [See Enright's Forgiveness Model: Work Phase 12].

Encourage positive attributions of the other and appreciation for the complexities of human behavior.[See Enright's Forgiveness Model: Work Phase 13].

Acknowledge efforts made to gain control over anger and find out what is needed to make a "fresh start" with the other. [See Enright's Forgiveness Model: Work Phase 14].

Promote initiating contacts (offers) and favors (collaborations) directly between parties. [See Enright's Forgiveness Model: Work Phase 15].

### **After Settlement or Just Prior to Ending a Mediation**

In private caucuses, examine ways each client intends to keep matters in the past. What delayed goals or new purposes are open to them? [See Enright's Forgiveness Model: Deepening Phase 19]

Provide a summary overview of what mediation accomplished for the client beyond the settlement or in spite of the lack of agreement.

Emphasize those things from the profession's definition of forgiving that you observed as the mediator.

The goal is to set in mind the solid steps taken and achieved. [See Enright's Forgiveness Model: Deepening Phase 20]

### **Follow-up**

If residual anger appears to be a threat to sustaining a settlement or has blocked all attempts for resolution, have educational materials about anger management, forgiving, or other resources for a next step available for the client to consider.

Recommend, or provide if trained, specific forgiveness intervention.

Boesch's Preliminary Model for introducing *forgiving* in mediation illustrates the dominance of the language of social and clinical psychology in the vocabulary of mediators. While awareness of this vocabulary informs practice, there remains a need to step back and reflect on what we are really doing. I respect the discipline from which the model is drawn, but find its clinical labeling a debilitating temptation. I prefer some other words for some of the very same things in the Model.

"Fuzzy" definitions are sometimes better in mediation practice. My summary for encouraging the practice of forgiving in mediation has five points, using soft theological language, but borrowing terms from mediation curricula.

There is a "dance" of mediation, usually thought of in the context of "distributive bargaining." The distributive bargaining dance is but one step, as sadly predictable as the "box-turn." Learning the dance of *forgiving* is less so, with infinite variation, yet still a series of steps:

### **7.1. THE "DANCE" OF FORGIVING IN MEDIATION**

Encourage the parties to:

#### **Discern what happened and is happening.**

Dealing with the past is taboo for some mediators. Most conflicts have colorful pasts which are personal to the parties. Pasts should not be avoided or glossed when a continuing relationship needs development by the parties in dispute. The facilitator of promises (mediator) should establish, through *hospitality*, a safe place in which people may take risks, in safety. Mediators invite, without invading, prepare without manipulating, normalizing the atmosphere of mediation eliminating blame from the context so that the parties may trade reassurances, freely identifying choices, so they may choose to agree. In a word, Mediators should offer the opportunity for acknowledgment of the humanity and value of all parties in conflict. This is indeed a dance of ritual exchanges. It is by the Grace of God (see 6., below) that S.O.B's come to see each other as brothers.

#### **Recognize the propriety of anger and the desire to overcome it.**

Nice thoughts usually are not the origin of sacred relationships. Forgiving follows discernment, recognition, struggle, and pain. Mediation replaces ritualized combat with new rituals - those associated with forgiving, healing, and reconciling. The stories may not be pretty. The language used at the outset may not even be civil. The mediator as "Daniel in the Lions' Den" is not the place for superficial piety. The propriety of expressing anger has to be recognized so that it may be overcome by the angry person. Respect irrespective of anger directed your way facilitates communication, perhaps even developing a sense of shame in the angry person.

#### **Struggle to wish the other (or others) well, as children of God (rather than dehumanize them).**

"Struggle" may be necessary to gain perspective when emerging from anger. At some point, anger exhausts the angry. Unkind statements about the other disputant(s) may cause a sense of shame, leading to reflection and self-examination. The struggle may be one of conscience. The conscience is a corrective for primal survival responses which have social consequences. If conscience does not act as corrective guide, context may yet assist one to master anger if only momentarily.

#### **Recognize my own complicity (role/ responsibility) in the conflict.**

Candid rational self-assessment leads to openness to *apologize, and apology*. Though beyond the capability of most people, apology is a sign of strength.<sup>13</sup> An apology is a gift requiring empathy as well as the security and strength to admit fault, failure, and weakness. A good apology must express soul-searching regret<sup>14</sup>.

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<sup>13</sup>Lazare (1995) says "What makes an *apology* work is the exchange of *shame* and *power* between the offender and the offended."

<sup>14</sup>Carl D. Schneider wrote a concise article on the elements of apology, published in *Mediation Quarterly* (vol. 17, Number 3 (Spring, 2000):What it means to be sorry: The power of apology in mediation.

### **Seek to change the conditions that led to the conflict.**

This step depends on the circumstances of the matter mediated.

### **Be open to Grace.**

Simply expressed, Grace is the love of God revealed through the presence of His Spirit in the world. When forgiving is experienced in mediation, God is closer than our closest friends, who may be those on the other side of the table.

Like Boesch's Model based on Enright the "steps" Forgiving Dance are not always sequential or easily choreographed. The "dance" is one which may be practiced incrementally. Some dance steps are simpler and more easily mastered than others. Good mediators, the artists, know not just the steps, but the parties capabilities and interests as well.

## **8. CONCLUSION**

Mediators are facilitators of promises. An unspoken implicit factor in reaching agreements is forgiving. Forgiving, when consciously offered, even in a less than perfect style, may build commitment to relationship in conflict management. Christine Boesch's research suggests only one in eight mediators consciously incorporate forgiving in their practices.

Successful implementation of agreements in conflicts requiring on-going relationships requires *forgiving*, yet *forgiving* is a term rarely used to describe or re-develop relationships in mediation. Other little used words in mediation include *covenant*, and *healing*. Mediation has become too pragmatic, losing contact with critical theological concepts which are now cloaked in the language of other disciplines when referred to at all. Mediation, as an art, requires philosophical reflection to be practiced well. Forgiving is a dance in mediation, but it is much more. Other metaphors resonate.

Irrespective of religious belief, *forgiving* is a wise, freely chosen option that fosters the dignity of persons who forgive. It is a strength in relationship to the other, a supplement to a pursuit for justice, and an expression of self-control over justifiably angry and/or vengeful impulses. As such, forgiving may be an essential factor in assisting disputants move from differentiation to integration to a problem solving solution in mediation. Forgiving prepares people to communicate, normalizing conversation by eliminating the context of blame. Small reassurances may be traded, leading to larger reassurances and the (re-)building of trust. The past will be dealt with, often in simple ways. "I'm sorry."/"Thank You." These are ritual exchanges in development of a covenantal relationship. As mediators we have the opportunity, as facilitators of exchanges of promises, to call the tune for a dance of reconciliation.

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## APPENDIX A

Aristotle marginalized forgiveness, thinking that it is acceptable for a virtuous person to forgive others, though that person should never want to need to be forgiven. Saint Thomas Aquinas transforms Aristotle's understanding and relocates forgiveness at the heart of the moral life. He does this by making charity (understood as friendship with God) the center of his moral reflection. See L. Jones, *Transformed Judgement: Toward a Trinitarian Account of the Moral Life* (Notre Dame: University of Notre Dame, 1989), chapter 2.

The following application of Aristotle's criteria for a moral virtue to the construct "forgiveness" is taken from Enright, Robert D. & Fitzgibbons, Richard P. *Helping Clients Forgive: An Empirical Guide for Resolving Anger and Restoring Hope*. Washington, D.C.: American Psychological Association (2000), pp. 255-56:

### 1. *Virtue as Goodness.*

Because moral virtues are centered on character, they are concerned with goodness.

The focus of forgiveness is on the overarching principle of beneficence with corollary principles of unconditional worth and moral love. Also included in the definition of forgiveness are the moral emotions of compassion and the expression of generosity. All of these qualities, properly understood and practiced, are concerned with human welfare and, therefore, qualify as good.

## **2. *Virtue as Inclination.***

In possessing character or in practicing a virtue, the person wants to do good: there is an inclination to be forgiving. The person must want to and be motivated to forgive.

## **3. *A Virtuous Person Understands What He or She is Doing.***

One who forgives from a moral position understands forgiveness as moral or good. The person must have some sense of what he or she wants. This should be determined by a “rational principle”: Why do I think that it is good to forgive? This does not necessarily mean that the forgiver holds to a conscious statement about such principles, as a moral philosopher might, but there is some sense of awareness of the moral goodness involved in forgiveness.

## **4. *A Virtuous Person Practices the Virtue.***

One is said to possess character or to be demonstrating a virtue when he or she is practicing this quality. A forgiver forgives. Yet, it is not so simple that a forgiver always forgives in the same way, with the same effort, and with the same swiftness. The situation and person one faces determine the quality of the forgiving at any given time.

## **5. *A Virtuous Person Need Not Be Perfect in the Expression of the Virtue.***

One who practices a virtue rarely does so with perfection. It takes time to be transformed, to perfect the quality of the virtue. One may be a better forgiver at age 60 than at age 40 if the virtue is embraced and practiced regularly.

## **6. *Different People Demonstrate Different Degrees of the Virtue.***

There are varying degrees of any virtue that different people possess. We know that forgiveness is not an all-or-none phenomenon based on our studies with the Enright Forgiveness Inventory. Expect individual differences in forgiveness.

## **7. *A Genuine Expression of a Virtue Avoids Extremes.***

The genuine practice of virtues is expressed within what Aristotle calls a mean, not under represented or over represented to the point of distortion. For example, a forgiver does not just wave passively at the idea of giving up resentment (a negative extreme) or embrace the notion of living with a physically abusing person at all costs in the name of forgiveness (an extreme that may go beyond the positive pole of forgiveness).

## **8. *A Virtuous Person Tries to be Consistent.***

A person who genuinely practices the virtue strives for consistency within similar situations. If one forgives a brother of being an hour late to the scheduled meeting, then one strives to forgive the stranger who was similarly late. Of course, even though one tries to forgive people in a similar way in very different situations, one may not be successful. For example, forgiving a tardy brother may be quite different from forgiving a parent who was continually abusive for many years.

## APPENDIX B

### Goals of the Phases of Forgiveness

<b>Phase</b>	<b>Goal</b>
<b>Uncovering</b>	Client gains insight into whether and how the injustice and subsequent injury have compromised his or her life.
<b>Decision</b>	Client gains an accurate understanding of the nature of forgiveness and makes a decision to commit to forgiving on the basis of this understanding.
<b>Work</b>	Client gains a cognitive understanding of the offender and begins to view the offender in a new light, resulting in positive change in affect about the offender, about the self, and about the relationship.
<b>Deepening</b>	Client finds increasing meaning in the suffering, feels more connected with others, and experiences decreased negative affect and, at times, renewed purpose in life.

### Enright Model: Processes of Forgiving Another Cognitive, Behavioral and Affective Phases

#### Uncovering Phase:

To gain insight into whether and how an injustice and subsequent injury have compromised one's life.

1. Examination of psychological defenses.
2. Confrontation of anger: the point is to release, not harbor, the anger.
3. Admittance of shame, when this is appropriate.
4. Awareness of cathexis.
5. Awareness of cognitive rehearsal of the offense.
6. Insight that the injured party may be comparing oneself with the injurer.
7. Realization that oneself may be permanently and adversely changed by the injury.
8. Insight into a possibly altered "just world" view.

#### Decision Phase:

To gain an accurate understanding of the nature of forgiveness and to make a decision to commit to forgiving based on this understanding.

9. A change of heart/conversion/new insights that old resolution strategies are not working.
10. Willingness to consider forgiveness as an option.
11. Commitment to forgive the offender.

**Work Phase:**

To gain a cognitive understanding of the offender and to begin viewing the person in a new light, resulting in positive changes in affect about the offender, about self, and about the relationship.

12. Reframing, through role taking, of who the wrongdoer is by viewing him or her in context.
13. Empathy and compassion toward the offender.
14. Acceptance/absorption of the pain.
15. Giving a moral gift to the offender.

**Deepening Phase:**

To find meaning in the suffering, to feel more connected with others, to experience decreased negative affect and, at times, to renew one's purpose in life.

16. Finding meaning for oneself and others in the suffering and in the forgiveness process.
17. Realization that oneself has needed others' forgiveness in the past.
18. Insight that one is not alone.
19. Realization that oneself may have a new purpose in life because of the injury.
20. Awareness of decreased negative affect and, perhaps, increased positive affect, if this begins to emerge, toward the injurer; awareness of internal, emotional release.

