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The Narrative Approach to Mediation

Toran Hansen

Narrative Mediation is a new approach to mediation that was spawned by Narrative Family Therapy, developed in the mid-1980s by Michael White and David Epston, in Australia. It came out of their interest in post-modernism and social constructionism, examining the making of meaning through the filter of language and the subjective interpretation of "facts." While Narrative Therapy has become relatively mainstream in Family Therapy, Narrative Mediation is still a relatively new and unexplored phenomenon in the field of mediation. Narrative Mediation is being pioneered presently in Waikato Mediation Services in Hamilton, New Zealand, through the work of John Winslade, Gerald Monk, and Alison Cotter. Monk and Winslade also have taught counseling courses in narrative practices at the University of Waikato's School of Education Human Development and Counseling Program, where Winslade is a Senior Lecturer. Monk is the Director of the School Counseling Program at the College of Education at San Diego State University. Now, I would like to tell you a story about Narrative Mediation.

It is widely accepted that mediation is a storytelling process...telling one's story in mediation serves simultaneously the ethical mandate, "participation," as well as the pragmatic mandate to move "from story to settlement." The story is at once its content, contained within the body of the story itself (the actual set of events) and its telling, or the complete discourse around the way the story is delivered. In mediation, the conflicting parties' stories act like "theories of responsibility," which construct the logical, causal linkages between actors, their actions, and outcomes. People can actually be said to think in terms of stories and their constituent parts (the themes, roles, and plots), which work together to create a system of meaning around particular people and events. The stories that one constructs fit into a wider web of stories relating to other stories created by the same individual, to stories created by members of one's social network, and even to cultural stories on a societal level.

* Toran Hansen, M.S. student in Conflict Analysis and Resolution at Nova Southeastern University, 99 E. Crescent Dr., San Rafael, CA, 94901. Telephone: (415) 457-5210, E-Mail: toran-hansen@yahoo.com.

2. Id. at 50-51.
3. Id. at 52.
4. Id.
5. Id. at 53.
In mediation, "narratives are interactively developed, modified, and contested as disputants elaborate portions of their own and each other's conflict stories."\(^6\) Conflict stories tend to cast oneself in the role of victim and protagonist, which contrasts against the other party in the role of the victimizer, the antagonist.\(^7\) For mediation to effectively use the storytelling metaphor and create a cooperative climate among disputants, it becomes necessary to destabilize those "theories of responsibility" which simultaneously serve to legitimate one's point of view and de-legitimate the point of view of the other party. This leaves conflicting parties with a previously "closed" interpretation (their story) open to new possibilities and interpretations. This new climate of openness can lead to the genesis of a new account and mutually satisfying interpretations and outcomes.\(^8\)

Narrative Mediation builds on the storytelling metaphor. It is both an approach and a methodology, providing mediators with a way of weaving stories into the fabric of the mediation. Narrative Mediation comes out of the tradition of Narrative Family Therapy developed by Michael White and David Epston in the mid-1980s.\(^9\) The model came out of the tradition of postmodernism and, more particularly, its embrace of multiplicity and contingency.\(^10\) Postmodernism recognizes that one's point of view can never be completely "objective" and an account of an event is intrinsically linked to one's point of view. One's point of view, by extension, comes directly out of one's socio-cultural context.\(^11\)

Postmodernist therapies "attempt to privilege clients' interpretations in the construction of meaning through a collaborative conversation."\(^12\) There is no one "truth" to discover, merely individual interpretations of what has transpired, is transpiring, or will transpire. One viewpoint should, therefore, not be privileged as being considered "truer" than another. All stories are representations of events. Their "accuracy" and "truth" are not questioned in therapy sessions, as this would inevitably lead to privileging certain views over the clients'. This has noticeably occurred in traditional therapy which often privileges the therapist's view over the client's. The common position taken by "expert" therapists is to diagnose and treat clients based on the therapist's "expert" point of view, which uses a process of medical labeling to describe client conditions. In Narrative

\(^{6.}\) Id.
\(^{7.}\) Id. at 57.
\(^{8.}\) Id. at 60-61.
\(^{10.}\) Herb Wylie & David Pare, Whose Story is it Anyway? An Interdisciplinary Approach to Postmodernism, Narrative & Therapy, 34 MOSAIC 153 (2001). All pinpoint cites taken from article abstract taken from Infotrac Journal Database 1-14.
\(^{11.}\) JOHN WINSLADE & GERALD MONK, NARRATIVE MEDIATION: A NEW APPROACH TO CONFLICT RESOLUTION 41 (2001).
\(^{12.}\) Wylie & Pare, supra note 10, at 2.

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Therapy, on the other hand, the clients identify their own problems and resolutions. The identities of individuals are created and recreated in therapy as they create and recreate their personal stories and, at the same time, the stories of the dominant societal discourse affecting them. By influencing the client's view of reality through therapy, client's identities are changed in an active, imaginative endeavor between the therapist and the client. Clients are given more control in the creation of their own stories, their own identities, and, consequently, more control over their lives.

Language also plays an important role in the genesis of meaning through stories. It is the medium by which stories are designed and, in post modernist thought, it is not considered to be a value-neutral medium through which our ideas pass, but rather, it has meaning unto itself. Our words do not simply describe our experiences, but in a very real sense serve to create them. The social constructionist point of view considers language a type of social action. The very act of naming, giving meaning to a word, leads to a certain perception of the concept named. The act of naming is part of the dominant societal discourse coming out of one's socio-linguistic heritage. In fact, Michael Foucault, a pioneer in social constructionism, demonstrates how language construction is an act of power which serves the interests of the dominant classes with linguistic forms, "present[ing] as 'normalizing truths' in the sense that they construct norms which [mold] people's lives and relationships." Therefore, social constructionist approaches consider the meaning-making behind the background discourse coming out of language use and attempt to make this explicit in therapy sessions, ultimately giving the power of naming and meaning-making back to clients.

Postmodern approaches are not without their criticisms. Chief among them is the concern that the inherent subjectivity represents "a sort of 'anything goes' aesthetic, a relativistic chaos, [and] an abandonment of shared ideals." Postmodern thinking can result in, "an ethical relativism that... will create a vacuum in which the power principle will become preeminent." "The destabilizing of identity, reality, and interpretation raises a number of disconcerting issues such as the dissipation of political, social, and cultural agency." If a client's unique

13. Id. at 3.
14. See id.
15. WINSLADE & MONK, supra note 11, at 39-40.
16. Monk, supra note 9, at 5.
17. Wylie & Pare, supra note 10, at 1.
18. Id. at 12.
19. Id. at 12.

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viewpoint is privileged then "the truth" is no longer fixed and knowable, it is only "the truth" in so much as it accurately reflects a client's reality. The concern is that this subjectivity will lead to a kind of ethical anarchy and therapeutic interventions will no longer be guided to the same extent nor will their "solutions" be evaluated against any objective criteria. Conversely, postmodernists feel that the acknowledgement of the inherent subjectivity in therapeutic interventions is a strength. "It deposits us on different (if no longer solid) ground, a ground that offers new possibilities for staging resistance to the damaging effects of social, cultural, and political and political dominant narratives and for inviting subjects to write for themselves more empowering, less subjugated narratives."\(^{20}\)

Narrative Mediation with its postmodernist underpinnings, challenges the problem-solving orientation and its positivist foundation, prevalent in the field of mediation today. Rifkin, Millen, and Cobb suggest that a "folklore of neutrality" has developed in the field of mediation in which it is considered possible for mediators to stand apart from their own historical and cultural context.\(^{21}\) Narrative Mediation involves recognizing that one cannot be completely neutral and requires practitioners to take a stand on issues stemming from dominant societal discourses which create and recreate systems of oppression. In addition, the feasibility of separating content and process issues, considered an integral aspect of the problem-solving model, is seriously questioned. Narrative Mediation considers both content and process as part of the overall meaning-making system and does not try to separate them in the practice of mediation for the expressed purpose of focusing exclusively on process issues. Furthermore, the problem-solving orientation and its orientation towards settlement tends to emphasize substantive issues over relational issues. Narrative Mediation places substantive issues as a secondary aim after considering the primary, relational needs of the conflict parties. As well, the problem-solving approach, having come out of an individualistic culture, has been criticized for being less than accommodating for members of collectivist cultures and their needs, while Narrative Mediation, sensitive to other cultural meaning-making systems, elicits and draws upon the clients' worldviews in seeking "local expertise" and resolutions.\(^{22}\)

Due to its emphasis on resisting dominant societal discourses, the narrative approach has been found to be particularly effective in working with marginalized groups. One principle focus in a narrative approach is on, "helping clients

\(^{20}\) Id. at 12.


\(^{22}\) ALISON TAYLOR, THE HANDBOOK OF FAMILY DISPUTE RESOLUTION: MEDIATION THEORY AND PRACTICE 137 (2002); WINSLADE & MONK, supra note 11, at 35-37; Cotter et al., supra note 21, at 22-24.
not only to tell their stories, but to find strategies for resisting the internalization of negative cultural messages."23 “Human dilemmas are manufactured in the social contexts rather than embedded in the human beings themselves… this stance enables clients to experience liberation on a very individual level.”24 Michael White’s catch phrase for Narrative Therapy is, “the people are not the problem; the problem is the problem.”25 This externalization of the problem can be particularly beneficial for marginalized groups who, when privileging the prevailing societal discourse, consider themselves to be the source of the problem. As a result, a narrative approach, “addresses the power of cultural systems in shaping people’s lives, and the power engendered when clients free themselves from cultural constraints on self-definition.”26 Good examples of this exercise of empowerment come from successes Narrative Therapy has had in working with adolescent girls and women suffering from anorexia and bulimia.27 Success of the narrative approach is thought to come out of its concern for undermining the social injustices which have negatively impacted marginalized groups. It “is simultaneously value-based and method-based; an approach that embodies the strengths perspective and extends it further into the realm of social justice.”28 Thus, the narrative approach bridges the gap between micro-level and macro-level change by providing a nexus between the dominant societal level discourse and the individual’s idiosyncratic stories.29

Coming out of the tradition of Narrative Family Therapy, the Narrative Mediation adopts a profoundly therapeutic style of mediation, which contrasts against the bargaining style. In therapeutic mediation, mediators emphasize increasing understanding among the disputants and overcoming relationship problems. Face-to-face contact between parties is maximized during the intervention, as are attempts to uncover underlying issues and veiled interests. The goal is not simply to reach agreements but to use the intervention as an opportu-

24. Id. at 2.
25. TAYLOR, supra note 22, at 136.
28. Vode & Gallant, supra note 27, at 12.
29. Id. at 12-13.

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nity to improve communication and to develop a foundation for addressing problems in general. In the bargaining style, settlements are more heavily emphasized, caucuses are more frequent, and attempts to narrow issues, promote compromise, and synthesize arguments are more common. The narrative approach seeks to better conflict parties as people, as much as it attempts to deal with the specific conflict at hand and generate a settlement.

In Narrative Mediation, conflicting parties pass through three phases: engagement, deconstruction of the conflict-saturated story, and construction of an alternative story. However, "these are not discrete stages. They do not always follow one after the other in tidy sequences. At times a mediation may move back and forth between these stages." As noted above, it is critical that the mediator be tuned in to the dominant discourses affecting the thoughts and actions of clients throughout the mediation process. Assumptions by one or both parties relating to either the conflict, the conflicting parties, or the conflicting parties' roles (e.g. husband/wife, employer/employee, African-American/Caucasian, etc.) are addressed and reconsidered throughout the mediation sessions. This involves pulling apart old, comfortable modalities of thought, old stories pertinent to the conflict, the conflict itself, the other party(ies), or even of oneself, to make room for the new modalities, the new stories. The mediator must be ever vigilant in searching for small pockets of resistance by clients to their "theories of responsibility" or for alternative ways of viewing the conflict and the other party. These are often hidden within the dominant discourses which color the client's worldview. From these alternative ways of considering certain moments contained within the stories of conflicting parties, they can identify preferred options from which to generate a new shared narrative, outside of their established modes of thinking.

In the engagement phase, like with other approaches to mediation, the mediator concentrates on establishing a relationship with conflict parties. Attention is paid to the physical setting of the mediation, the initial moves of conflict parties, and their non-verbal behavior. The narrative approach recognizes the role the mediator and the mediation have within the conflicting stories of the parties and consider the implications of how their identity (gender, ethnicity, etc.) and the physical setting will impact the conflict narratives of the parties.

31. Id.
32. TAYLOR, supra note 22, at 135; WINSLADE & MONK, supra note 11, at 58.
33. WINSLADE & MONK, supra note 11, at 91.
34. Id. at 58-61.
35. TAYLOR, supra note 22, at 135; WINSLADE & MONK, supra note 11, at 61.
37. WINSLADE & MONK, supra note 11, at 62.
38. Id. at 64.
a psychologically safe environment and a strong alliance with the conflicting parties is paramount and becomes the foundation for the work to follow. The narrative mediator is at once concerned with what conflicting parties say and the manner in which they say it. Once the stage is set and rapport established, the mediator invites the conflicting parties to tell their stories. This is where Narrative Mediation starts to take on a very different character from other approaches to mediation.

In Narrative Mediation, the mediator uses specific tools and strategies to achieve the goal of moderating conflict interactions. The centerpieces of the approach are the dual processes of deconstruction and externalization, which work hand-in-hand with one another. Deconstructing the conflict-saturated story involves, “undermin[ing] the certainties on which the conflict feeds and invite[ing] the participants to view the plot of the dispute from a different vantage point.” This vantage point comes out of a process called “externalization.” Through externalization, conflicting parties, “objectify the problem and place it outside themselves, as if it were a separate entity.” “They are given the chance to view the problem as an imagined other, a third entity in the relationship. . .and are both positioned simultaneously as “victims” to the problem’s tyranny. . .they are spoken of as on the same side.” The process of naming the conflict can be quite playful and creative, resulting in a personified “other” who becomes the antagonist in the new, united narrative.

Externalization is a mechanism for redressing and destabilizing “totalizing descriptions” or a person’s tendency to “sum up a complex situation in one description that purports to give a total picture of a situation” which inevitably favors oneself and places blame for the conflict on the other party. The conflict is subsequently referred to as “this conflict” or “it” rather than “your conflict.” Alternatively, it is named and called by its name (such as “this distrust”), and in the process of this externalization, the blame for the conflict is removed from the other party. Conflict parties are empowered by participating in naming their conflict account and are given the ability to actively resist its control and manipulation over them. Initially, the parties often meet with the mediator

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39. Id. at 68-69.
40. Id. at 72.
41. Taylor, supra note 22, at 136.
42. Cotter et al., supra note 21, at 32.
43. Id.
44. Winslade & Monk, supra note 11, at 5.
45. Id. at 7; Cotter et al., supra note 21, at 32.

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separately to tell their account of the conflict, to "story" it, and get familiar with the ideas of narrative deconstruction and externalizing the conflict. 46

Once the problem has been externalized, the parties and the mediator can work together to "co-author" a new narrative, one in which the parties work together against their common problem. The mediator is able to take a stance with the conflicting parties, joining them in a protest against the conflict. The recognition that the mediator is a part of the conflict and its movement towards a solution allows the mediator to address power differentials in the relationship, particularly those which become evident through the process of deconstructing dominant discourses. 47 There are several questioning techniques, termed "recovering the unstoried experience," which help the mediator bring out this new narrative and explore it. The parties accounts are mined for "small signs of hopefulness and strength that can lead to an alternative story." 48 Called "unique outcomes," these moments "are often isolated pieces of lived experience that are not salient to people's thinking simply because they do not fit into the dominant story." 49 Unique outcomes can be "surprising little discoveries each party makes about the other's intentions or motivations or life circumstances...sometimes they are simply little moments of shared agreements or understanding...As these little moments appear, the mediators draw attention to the meanings the parties share." 50

These unique outcomes could be likened to Bush and Folger's concept of recognition from transformative mediation which involves, "the evocation in individuals of acknowledgement and empathy for the situation and problems of [the other party]." 51 Specific questioning techniques are employed to elicit and explore these unique outcomes and unstoried experiences. 52 In order to gain access to these unique outcomes the mediator adopts a stance of curiosity. This "curiosity enables the client to discover what strengths [and commonalities] are present, seeing even problematic behavior as a potential resource and looking at [the] special indigenous knowledge of the client." 53 This has obvious similarities to Lederach's elicitive approach to Conflict Resolution training, in which the trainer adopts a position of "ignorance." 54 The trainer assumes a position of ignorance on two levels. 55 First, the design and goals of the training are identi-

46. See Winslade & Monk, supra note 11.
47. Winslade & Monk, supra note 11, at 48.
49. Winslade & Monk, supra note 11, at 84.
50. Cotter et al., supra note 21, at 35.
52. See appendix 1 for sample questions.
53. Monk, supra note 9, at 7.
55. Id. at 57-58.
fied and formulated by the participants. 56 Secondly, the trainer cannot assume that his/her experience and expertise accumulated in one setting is a key resource for the training in another. 57 "The attitude of the trainer is essentially, 'I do not have the answer, but I can work together with others on a process that may help us find it.'" 58 It is the job of the narrative mediator to work in earnest to help conflicting parties to discover new possibilities by demonstrating ignorance and using curiosity to draw out ideas and stories.

In developing a new narrative, these unique outcomes are built upon and an alternative story is "thickened." "To this end, links must be made between exceptional events. Surprises must come to seem not so surprising because they fit with the alternative story rather than contrast with the problem story." 59 "The adeptness of the mediator is required to tease out the beginnings of a more preferred narrative from amid the problem story." 60 In so doing, "attention must be paid to building on the potential for further alternative descriptions of the relationship. There is a tendency for participants to become reenlisted in the problem description if the mediator does not pay attention to strengthening the emerging non-conflict focused interactions." 61 "Smalling questions" may be required to break down the lived experiences. For example, the mediator may ask, "Was there any occasion during the few interactions that you did have when a small amount of mutual respect may have been evident?" 62 "Two or three lived experiences that testify to more respectful and favored interactions. . .are then woven into a coherent narrative with a history, a present, and a future." 63

"At this point, [the narrative] approach to mediation converges again with the problem-solving approach. There is still a place within [this] framework for the processes of generating options and then exploring those options and negotiating mutually satisfying outcomes." 64 "A counterstory of understanding or agreement or cooperation [is] established before any attempt is made to address the specific problem-solving tasks." 65 "A sense of hope is built that things can

56. Id.
57. Id.
58. Id. at 58.
59. Cotter et al., supra note 21, at 34-35.
60. WINSLADE & MONK, supra note 11, at 85.
61. Id. at 86.
62. Id.
63. Id.
64. Cotter et al., supra note 21, at 36.
65. Id.
be different. In this atmosphere of hope, the generation of options for change and the exploration of the fit of such options for each party is easily achieved." 66

While some may see this as a solution or a win-win outcome, Winslade and Monk believe "that an emphasis on discursive repositioning enables something far more potent than satisfying interests or meeting needs to take place." 67 They favor discursive repositioning, which "includes the conscious shaping, albeit in some small way, of the discourses out of which needs and interests are produced." 68 Narrative Mediation is thus interested in resolutions that go beyond simple settlement to consider the effects of the mediation on the society at large and, like transformative mediation, considers mediation as a means for conflict parties to achieve a higher moral self. 69

Consequently, the goals of Narrative Mediation represent a kind of hybrid between the solutions created out of a problem-solving approach and the resolutions of the transformative approach in which empowerment, recognition, and social justice are sought. It must be emphasized that the narrative approach privileges relational issues over substantive issues, which, in turn, "shortens the negotiation phase of mediation, because it engages people in negotiation from a place of greater willingness." 70 Written agreements are a natural extension of the new narrative and, in a very real sense, become a part of it as a new plot development. 71 They become a way of strengthening the parties commitment to the new narrative. "Because dominant stories can be expected to reassert themselves after a meeting with a mediator is over, such strengthening may often be crucial to the survival of a new perspective." 72 Narrative mediators often follow-up an agreement with letters to conflicting parties or with another session to continue the process of supporting the new narrative. 73 "This [new session] is not just a 'checking up' [but rather]... a search for new developments that might not have been predicted... Attention is paid to the decisions, steps, new ideas, differences in mood, everyday exchanges or tiny moments of developing cooperation... These are deliberately built into the alternative story." 74 The story of the relationship thus leads naturally into the alternative story of the conflict involving the mediation, which, in turn, leads to mediation follow-up and relationship change in the new narrative.

Narrative Mediation is an approach and methodology that can offer mediators an innovative way to handle conflict intervention. It is important to note.

66. Id.
67. WINSLADE & MONK, supra note 11, at 62.
68. Id. at 62.
69. BUSH & FOLGER, supra note 51, at 3, 27, and 81.
70. WINSLADE & MONK, supra note 11, at 90.
71. Id. at 90-91; Cotter et al., supra note 21, at 37.
72. WINSLADE & MONK, supra note 11, at 91.
73. Id. at 24.
74. Cotter et al., supra note 21, at 38.
that "it is not a model that can be ransacked for techniques without damaging the intent and process it requires. . . because the foundational view is vastly different [from other approaches]."\textsuperscript{75} It may, however, particularly appeal to mediators with a postmodernist theoretical bent who prefer to work with the accounts of parties in conflict rather than attempting to get at "the truth" because they recognize that any truth brings with it implicit bias.

The explicit role of mediator as a party to the conflict, however, raises concerns about the viability of mediator neutrality. While future research needs to look at the efficacy of this approach, one can certainly muse over the possibilities. It provides an interesting alternative to traditional mediation approaches and may in fact provide exceptional conflict outcomes, which go beyond simple settlement. It is important to recognize, however, that a mediator interested in the narrative approach should get special training and practice to learn how to effectively apply it, as the model is not particularly intuitive.\textsuperscript{76}

\textbf{Appendix I - Questions to Elicit Unique Outcomes}\textsuperscript{77}

\textit{Unique outcome questions}

How is it that conflict did not completely stop you from wanting to talk together and find your way through the present difficulties?

Why did hurt feelings and blame not stop you from canceling this meeting?

Do any recent occasions stand out for you in which hurt feelings and blame did not completely destroy your efforts in searching for a solution?

Have there been any instances recently when you experienced a hint of not being defeated by hurt feelings and blame?

\textit{Unique account questions}

How do you explain that you were able to be more in charge of blame, humiliation, hurt feelings, or injustice than you initially thought?

When other people may have held on to hate, how did you develop the resources not to be dominated by blame and claim a sense of space for yourself?

What do you think that it means that you are agreeing about that issue?

\begin{footnotesize}
\begin{itemize}
\item 75. TAYLOR, \textit{supra} note 22, at 137.
\item 76. \textit{Id.}
\item 77. WINSLADE \& MONK, \textit{supra} note 11, at 87-89.
\end{itemize}
\end{footnotesize}
How significant is it that she is willing to cooperate on your request in this case?

Unique redecoration questions

What does this tell you about yourself that you otherwise would not have known?
What does your movement away from conflict say about your ability to resolve painful difficulties?
Does cooperation suit you better than arguing, or not?
If most of the time you were able to talk civilly and respectfully about things, as you have been doing today, what would your relationship be like?

Unique possibility questions

Given your present understandings and your desire to heal the wounding effects of blame, what might be your next step?
If you were to advance the cause of cooperation, what might you try to do in the next week?
Now you have noticed these chances to explore greater respect in your relationship, what differences could they make?

Unique circulation questions

If your children were witness to these discussions, who would be most excited about this change in direction?
What difference would introducing more cooperation into this situation, as you have been proposing, make to your other staff or to the service you provide to your customers?
Who will be most likely to support the continuation of these developments?