



Mediation: A Current Review and Theory Development

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Mediation

A CURRENT REVIEW AND THEORY DEVELOPMENT

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The mediation literature of the past decade is organized into six topical areas: the determinants of mediation, mediation per se, approaches employed by mediators, determinants of the mediation approaches, outcomes of mediation, and determinants of the mediation outcomes. The literature that describes mediation per se, mediation approaches, and outcomes is very descriptive rather than theoretical. The literature that deals with the determinants of the mediation, approaches, and outcomes is quite descriptive but also provides an ample base for theory development.

“**T**he women of the North people (Vikings) do not fight among themselves, and often did I see them intercede in a growing brawl of two men, to quench the rising anger” (Fadlan, quoted in Crichton 1976, 111). As this entry from Ahmad Ibn Fadlan’s diary in 922 reveals, mediation has lengthy historic roots, and recent reviews indicate that it has been used extensively for decades to resolve conflict (Wall 1981; Wall and Lynn 1993). During the past decade, reports on the practice and study of mediation have increased linearly, if not exponentially, and such an expansion provides the motivation to review and analyze the mediation literature during this period. In the following pages, we proffer such a review, with an emphasis on the literature from the past 5 years.

Mediation is assistance to two or more interacting parties (Kressel and Pruitt 1989) by third parties who (usually) have no authority to impose an outcome. Not only is mediation one of the oldest forms of conflict resolution, but it is also used worldwide, with examples found in China (Cohen 1966), Korea (Kim 1986), Malaysia (Provencher 1968), Poland (Olszanska, Olszanski, and Wozniak 1993), Azerbaijan (Keller 1991), Israel (Abu-Nimer 1996), Norway (Polley 1988), and Japan (Cortazzi 1990).

AUTHORS’ NOTE: Due to space constraints, a complete list of references could not be contained within this article. Such a listing (approximately 530 in number) can be obtained from the first author at WallJA@missouri.edu.

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Today, this ancient and internationally used conflict management process is relied on to manage disputes in various arenas. Specifically, mediation is employed and studied in international relations (e.g., Bercovitch 1996), labor-management negotiations (e.g., Mumpower and Rohrbaugh 1996), community disputes (e.g., Pruitt et al. 1993), school conflicts (e.g., Johnson et al. 1995), and legal disputes (e.g., Riskin 1996).

MEDIATION PARADIGM

To organize the literature from the past decade reasonably and concisely, we use the framework delineated in Figure 1. The origin of mediation is the interaction between two or more parties who may be disputants, negotiators, or interacting parties whose relationship could be improved by the mediator's intervention. Under various circumstances (determinants of mediation), the parties/disputants decide to seek the assistance of the third party, and this party decides whether to mediate. As the mediation gets under way, the third party selects from a number of available approaches and is influenced by various factors (labeled *determinants of approaches*), such as environment, mediator's training, disputants' characteristics, and nature of their conflict.

Once applied, these approaches yield outcomes for the disputants (e.g., satisfaction, a perception of fair treatment), mediator, and third parties (other than the mediator). As the figure indicates, the nature and extent of this influence are mitigated by factors such as the intensity of the dispute, the relative power of the disputants, and the type of issue.

In the following review, we address the aforementioned topics in the order indicated by the figure—namely, the determinants of mediation, mediation itself, approaches employed, determinants of the mediation approaches, outcomes of mediation, and determinants of the outcomes.

The elements connected along the horizontal axis in Figure 1 (i.e., mediation per se, approaches, and outcomes) are typically listed or described in the literature. By contrast, the segments with the vertical links—the determinants of mediation, approaches, and outcomes—have some theoretical underpinnings. We begin with an examination of the determinants of mediation.

MEDIATION DETERMINANTS

For mediation to occur, two processes must mesh. First, the interacting/disputing parties must request or permit a third party to mediate; second, the third party must agree to mediate.

The literature indicates that two factors—norms and expected benefits—shape these two interdependent processes. Consider first the norms, which are frequently embedded in the culture. These serve as a powerful force, motivating disputants in China (Chan 1998), Korea (Cho and Park 1996), Japan (Callister and Wall 1997), Malaysia (Mansor 1998; Wall and Callister 1999), Thailand (Roongrengsuke and Chansuthus 1998), and Turkey (Kozan and Ergin 1998) to seek assistance from third

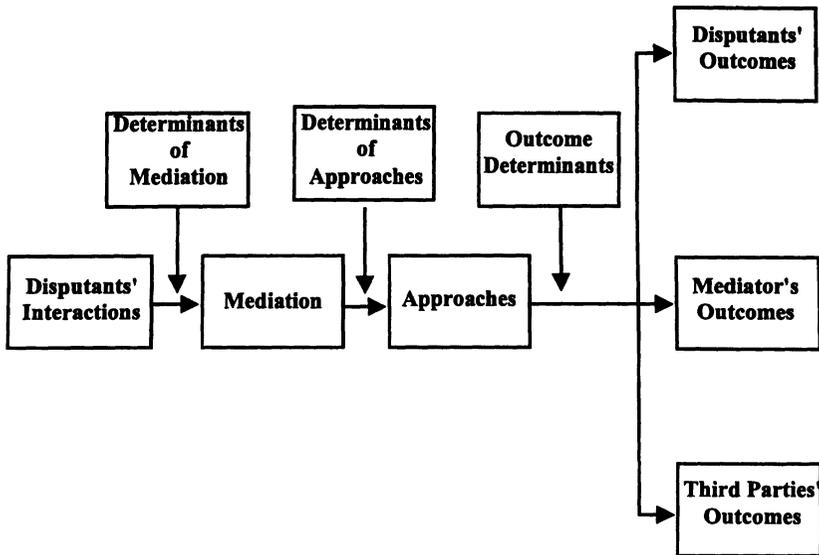


Figure 1: The Mediation Framework

parties. An explanation for this action—supported by cultural efficacy theory (Ohbuchi 1998)—is that the disputants in these countries have repeatedly observed disagreements being handled by third parties, and they know that their society sanctions this approach.

In contrast, disputants in the United States usually do not seek third-party assistance. Paquin's (1992) work illustrates this point in that he found only 10% of the disputing (U.S.) neighbors in his study turned to third parties for assistance, and none used mediation. Likewise, Keating et al. (1994) found that their disputants very seldom used mediation. The authors' explanation is that U.S. citizens are unfamiliar with mediation and therefore do not think to use it when conflicts arise.

Although national cultures entail or produce norms that prompt parties to use mediation, other norms are generated by the specific communities to which the disputants belong (Raymond 1994) and by their laws. For example, many states in the United States have passed statutes that allow the courts to order disputants to participate in mandatory mediation (Winston 1996). When the courts do so, the disputants must and do attend meetings (Thoennes, Salem, and Pearson 1995). On the other hand, when the legal community is unfamiliar with mediation and does not require it, disputants are less apt to rely on the process (Gaschen 1995).

Not only do norms and specific laws prompt disputants to seek or allow third-party assistance, but disputants also seek third-party assistance because they expect this will yield various benefits. For example, the disputants might realize that the mediator possesses some expertise on the problem, might have a method for overcoming impasses (Silver 1996), could be helpful in building a positive relationship between the parties

(Scherer 1997), could enable the parties to keep control of their own conflict (Stamato 1992), or keep the resolution confidential (Thrush 1994).

To evaluate the benefits of third-party assistance, the disputants often compare the outcomes of the mediated interaction with those of the alternative. Such an alternative might simply be a continual dispute, which negotiations have failed to resolve (Savoury, Beals, and Parks 1995). On the other hand, the alternative to third-party assistance might be adjudication, which can be frustrating (Ferstenberg 1992), slow, costly, and public (Stamato 1992).

Turning from the interacting parties to the third parties, we find that their mediation is also engendered by norms, specific laws, and expected benefits. As for the norms, we find that street committee mediators in China (Wall and Blum 1991), *imams* in Malaysia (Wall and Callister 1999), *panchayates* in India, and managers in Korean firms (Kim, Sohn, and Wall 1999) comply with the societal obligations to mediate disputes that are brought to them.

In the United States, the law may dictate that judges in civil cases mediate between the plaintiff and defendant in a pretrial settlement conference (Guthrie and Levin 1998). Many judges may prefer not to do so because they see themselves as adjudicators; however, if the relevant state and federal laws dictate settlement conferences, the judges are obligated to provide mediation services.

Shifting from the norms and laws to the expected benefits, we can note that the literature reports that some third parties mediate because it benefits themselves (Vanayan et al. 1997) or their constituents (Levitt 1997).

In sum, the third parties' motivation to mediate, like the interacting parties' / disputants' tendency to seek assistance, is determined by norms or laws and the expected payoffs from mediation. This summation and the studies underpinning it raise the question of whether we can develop succinct theories concerning additional determinants of mediation. These would increase our knowledge base and guide future mediation research.

THEORY DEVELOPMENT

Our deduction is that the first two of these factors—namely, norms and laws—do not offer fertile ground for theory building. The causes of norms and laws that promote mediation are so complex and multifaceted that theory building and predictions from them are often erroneous. For example, it seems reasonable to hypothesize that the Korean norms for disputants to seek mediation of their disagreements and for third parties to mediate these disputes are the product of the Confucian harmony-oriented religion. However, an equally valid explanation would be that the interdependence of the Korean agrarian society engendered these norms or that historically a lack of access to the courts was responsible for them.

Instead of developing theories for the underpinnings of mediation norms in various societies, we propose that scholars simply tally which societies (e.g., China, Korea, Malaysia, India, Polynesia) have norms or laws that promote mediation. This would lead to a rather straightforward conclusion that mediation is more apt to be undertaken in these societies.

While the norms and laws proffer somewhat barren ground for additional theory building, the “expected payoffs” construct does seem to offer some potential. Consider first the interacting parties. Using expectancy theory (Thibaut and Kelley 1959; Vroom 1964), we propose that disputants will seek mediation from a third party to the extent that each expects his or her own net outcomes—rather than the joint outcome—from the mediation to be greater than those from the current interaction or from an alternative approach. Fine-tuning this general hypothesis, we can derive some more specific propositions.

The expected net outcomes from the mediation are pivotal because the disputant compares the outcomes from the current interaction with these (and makes a second comparison between the expected outcomes from an alternative and the mediation net outcomes). This being the case, any factors that raise the expected outcomes from the mediation (e.g., reports that peer mediation in schools reduced violence) or lower the expected costs (e.g., lawyers not required) will motivate the disputant to seek mediation. Conversely, any factors that raise the expected net payoff from the current interaction will lower the disputant’s motivation to seek third-party assistance. Specifically, any factors that lower the costs of the current interaction (e.g., the opponent is becoming more agreeable) or raise its payoffs (e.g., the opponents’ concessions are increasing) will have this effect.

Emphasizing that interacting parties have alternatives other than mediation (e.g., arbitration, termination of the relationship, open conflict, the courts), we also posit that any factors that raise the expected outcome or lower the expected cost for the alternative (e.g., a “rent-a-judge” hearing permits a retired judge to expeditiously hear and rule on a case) will lower the probability that mediation will be sought.

To these expectancy-based predictions we can add one that deviates somewhat from rationality. It is based on the premise that interacting parties view their joint outcomes as a fixed sum (Johnson and Johnson 1996a; Rubin and Brown 1975). As such, a disputant will conclude that any activity that raises his or her counterpart’s outcomes will diminish his or her own. Therefore, any factors that raise the expected net outcomes of mediation for the opponent will reduce the disputant’s motivation to seek mediated assistance. This is not simply a “dog in the manger” effect that the disputant wants to deny the other party the benefits of mediation. Rather, it is the misperception that an increase in the other’s outcomes will come at one’s own expense.

MEDIATION PER SE

Having maintained that interacting parties will seek third-party mediation under various conditions and that third parties will engage in mediation under rather parallel conditions, we at this point need to focus more precisely on mediation itself. Types of mediation range from international and labor management to community and marital and others. With the various types of mediation come differing structures and techniques. For example, we find more complexity in international and labor management disputes, with more parties involved than in community or intrafamily disputes. Like-

wise, techniques that are used heavily in one arena (e.g., compensation in international mediation) are used infrequently in another (e.g., in legal mediation).

Despite the variety in mediation types, structures, and techniques, scholars over the past decade have developed somewhat of a consensus as to the definition of mediation's core process. Currently, most scholars seem to agree that mediation has three defining elements: (1) assistance or some form of interaction by (2) a third party who (3) does not have the authority to impose an outcome.

Admittedly, the last condition provides fuel for disagreement among researchers because some mediators do possess sufficient power to impose outcomes. Thus, some scholars have creatively tacked around the issue by inventing new labels such as "intravenors" (Conlon, Carnevale, and Murnighan 1994). Other scholars, perhaps most, seem content to acknowledge that some mediators do have power and use it. They argue that such a wielding of power does not transmute the process from mediation to some other process.

A useful replacement for the debate of mediation's definition is the recent discussion about what the goals and approaches of mediation should be. In one facet of the controversy, one side holds that mediators should be even-handed and impartial so that the outcomes of the mediation will be based on the merits of each side's case (e.g., Kruk 1998; Silver 1996). The other side in this debate argues that a mediator should be partial toward the weaker party to protect it (Honeyman 1991).

In a second controversy, some scholars advocate that mediation be used in tandem with other third-party approaches such as psychotherapy (Dworkin, Jacob, and Scott 1991), arbitration (Ross and Conlon 2000), ombudsmanship (Wiegand 1996), interpreters (Dominguez-Urban 1997), and nongovernment organizations (NGOs) that provide benefits to the disputants (Kriesberg 1996). By contrast, other scholars and practitioners believe that each profession should operate independently, rather than blurring responsibility and overloading the dispute with third parties.

APPROACHES

Once mediation is under way, what techniques do such third parties employ? The literature from the past decade is primarily descriptive, and we report it as such. The mediator's various techniques (see Table 1) are wielded against the disputants themselves, the disputants' relationship, and the disputants' relationships with others.

When targeting the disputants themselves, mediators can provide each or both with information or press them with threats or punishment (Touval 1996). Similarly, they can use personal power or authority to press an agreement point or rely on personal resources to win over (i.e., compensate) one or both parties (Murray 1997). In addition, mediators can determine which points are negotiable for each party (Munro 1997), educate/advise the disputants, and encourage concessions. The mediator may rely on reflexive techniques such as reframing the opponent in a more positive light (Umbreit 1993). Similarly, the mediator can help the parties to develop new norms and assist them in implementing their agreement (Maley 1995).

TABLE 1
Mediator's Techniques

<i>Technique</i>	<i>Example</i>
Disputant oriented	
Information gathering	From disputants or written documents
Pressing	Threatens a party in some way
Compensation	Rewards a person for making a concession
Education/advising	Calls for specific agreements or concessions
Reflexive	Uses humor or lightness
Empowerment	Suggests that disputants reach a solution on their own
Distributive	Criticizes a side's position
Inaction	Simply monitors the dispute
Disputant-disputant relationship	
Smoothing and cooling	Develops trust
Agenda	Meets together with disputants
Siding	Sells one side's case to the other
Integration	Packages issues
Problem solving	Looks for facts in the case
Representation	Asks one side to state the other's position
Disputants-third-party relationship	
Use of third parties	Obtains assistance from third parties
Making the dispute public	Shares the conflict with others

When targeting the disputant-disputant relationship, mediators can take steps to smooth the relationship by convincing the disputants to accept mediation (Abu-Nimer 1996), building trust between them (Landau and Landau 1997), and calling for consideration and apologies (Umbreit 1993).

At times, mediators control the agenda by establishing or enforcing a protocol for the mediation and harnessing techniques that control the disputants' perceptions and communications (McAllister 1998). Often, mediators separate the parties (Callister and Wall 1997), caucus separately with them (Keller 1997), bring them (Burr 1997) or their representatives together (Kelman 1996; Rouhana 1995), and, on occasion, adjourn the mediation sessions.

In coordination with the above techniques, mediators may side with one disputant (Laskewitz, van de Vliert, and de Dreu 1994) or seek to develop an integrative solution by proposing specific agreement points (Conlon and Fasolo 1990). Mediators may also help the parties to jointly perceive new collaborative goals (Kaufman and Duncan 1992).

At times, the mediator will use other third parties, bringing pressure to bear from them (Bonta 1996), obtaining their resources, or asking them to advise the disputants. At other times, the mediator will simply make the dispute public (Pinkley et al. 1995).

DETERMINANTS OF MEDIATORS' APPROACHES

Given the large variety of approaches available to mediators, what governs their choice? The literature from the past decade is sparse in reporting these determinants, which are essentially threefold: (1) the environment and the interested parties in it, (2) the mediator, and (3) the disputants. In this section, we report these and attempt to develop theory that more completely predicts mediators' approaches.

ENVIRONMENTAL FACTORS

Among the environmental influences, culture is the strongest and probably the most varied. The best documented effects of culture seem to be those for Eastern (versus Western) influences. The Eastern desire for harmony enhancement generates not only a preference for mediation (Gire and Carment 1993) but also influences how Easterners mediate. Eastern mediators make heavy use of harmony techniques, which establish and save face (Baine and Sawatzky 1991). They also employ pressure tactics (e.g., threats) quite frequently because their society grants them the power and status to do so. In Western mediation, by contrast, mediators are less apt to use such techniques (Abu-Nimer 1996). Although they are more blunt than Easterners, Western mediators less frequently press the disputants or bring third-party pressure to bear because their society does not empower them to do so (Wall and Stark 1998).

An interesting twist on the "power-to-the-mediator" theme is that Eastern mediators, because of their power, status, and resources, are capable of manipulating one or both sides via compensation. Egyptian mediators (Murray 1997) do so by drawing from their own resources, whereas Chinese, Malaysian, and Indian mediators dip into community coffers (Wall and Callister 1999).

Among other environmental factors, we note that time pressure motivates the mediator to use pressing tactics (Ross and Wieland 1996), as does the interdependence between the mediator and the dispute. If this relationship is such that a failed mediation results in losses to the mediator, the mediator works quite hard to be successful (Milburn and Isaac 1995), probably employing techniques that press the disputants. Likewise, if spillover of the conflict damages allies' interests (Watkins and Winters 1997), the mediator presses for resolution.

MEDIATORS' EFFECTS

Mediators' training (Harris 1994) and the acceptance of the rules that govern their practice (Burr 1997) also determine the techniques they use. For example, family mediators/lawyers in the United States typically abide by the American Bar Association 1984 standards of practice. Likewise, the basic principles of SPIDR (Society of Professionals in Dispute Resolution) influence the techniques its mediators employ. In addition to training and rules, the mediators' ideology (Kolb and Rubin 1991;

Karambayya, Brett, and Lytle 1992) serves as a strong influence on the tactic and strategy selection.

DISPUTANTS' EFFECTS

An examination of the effects of the disputants themselves indicates that the mediators' relationship and the nature of their past interactions dictate the approaches they employ. For example, if the disputants are not accustomed to joint problem solving, the mediator often caucuses with them (Welton et al. 1992). We find that mediators also caucus with disputants when they are hostile to each other or have a prior history of escalation (Welton et al. 1992). Similarly, mediators are found to use more reflexive techniques (e.g., humor or letting each disputant know its side is understood) when interparty trust is low (Ross and Wieland 1996).

THEORY DEVELOPMENT

As we noted previously, the reports from the past decade on the determinants of the mediator's approaches are somewhat sparse, providing a limited theoretical base. To address this limitation, we propose several factors that we expect determine the mediator's approaches.

Our starting point is Table 1, which lists the mediation techniques delineated in the literature. Having limned these mediation techniques, our goal becomes one of positing which factors determine which approach is used. We posit the effects of four such factors: (1) technique feasibility, (2) the mediator's "cost-then-benefit analysis" of the techniques, (3) the mediator's decision strategy, and (4) the mediator's goals.

Technique feasibility. The broadest criterion for the use of techniques is their feasibility. This standard was proposed in Carnevale's (1986, 1992) strategic choice model and is quite useful for sorting among the techniques that are used in mediation. Carnevale emphasized that mediators use only those techniques that appear feasible to them. For example, he noted that a mediator uses integrative techniques (e.g., proposing solutions that appeal to both disputants) only when the disputants have common ground because such techniques are not feasible when environmental factors create a win-lose relationship.

When we consider the techniques available to the mediator (Table 1), it becomes evident that some techniques may not be feasible simply because the mediator is not aware of them or is told not to use them. For instance, a peacekeeper in Bosnia will not use compensation techniques in mediating civilian disputes because his or her orders prohibit their use.

A theoretical deduction from this straightforward observation is that factors that shield a mediator from various techniques will, in turn, reduce the feasible set. One such factor would be mediator inexperience; another would be serving under a mentor who uses a limited cafeteria of techniques or the mediator's own fixation on techniques that have worked in the past.

Although some factors reduce or limit the mediator's feasible set, others are predicted to increase it. Take mediator status. As mediators' status increases, their feasible set also increases extensively. A mediator with high status will be attended to, rather than ignored by, the disputants; therefore, the reflexive, distributive, education, smoothing, and representation techniques are likely to be feasible. Pressing, empowerment, agenda setting, and making the dispute public are also feasible. Furthermore, status gives the mediator control over resources so that the techniques of compensation, information gathering, and use of third parties can be employed.

Cost-then-benefit analysis. In addition to feasibility, the cost of the techniques influences their selection. Instead of conducting a cost-benefit analysis of the techniques (Carment and Rowlands 1998), the mediator is more apt to eliminate the costly ones first and subsequently employ a cost-benefit analysis of those remaining.

The explanation for this prediction is twofold. First, the high cost of using a technique is immediate and certain for the mediator, whereas the benefits are delayed and less certain. Second, a high-cost technique can be perceived as "expensive" and thus be rejected (Bettman, Johnson, and Payne 1990).

Because of the mediators' cost-then-benefit analyses, many high-cost approaches are eschewed or are used only when the benefits are considered very high and probable. Such high-price tag approaches include joint meetings, asking third parties to criticize the disputing parties, information searches, prayers to multiple gods, and consideration of multiple alternatives.

Mediator's decision strategy. Having discussed two determinants of the mediator's techniques, we turn to the mediator's decision strategy. Generally speaking, the mediator can employ either a "heuristic" or a "compensatory" strategy. Heuristic strategies involve the use of minimal information and time, as well as the consideration of few alternatives and problem attributes. By contrast, compensatory strategies employ extensive amounts of information and time; herein, many alternatives and attributes are also considered.

Mediators do not automatically favor a heuristic or compensatory strategy. Rather, we contend that the approach is based on an efforts-accuracy assessment of the specific dispute (Bettman et al. 1993). Here, the mediator's assessment and resultant strategic choice of an approach are determined by the dispute's volatility.

As Amason (1996) noted, some conflicts are unemotional and characterized by a discussion of ideas and perspectives. Others, by contrast, are personal and highly emotional. In the latter emotional situation, the mediator is motivated to arrive at a reasonable solution quickly. Thus, the heuristic strategy becomes more attractive in these volatile settings (Bettman et al. 1993) because it allows the mediator to examine alternatives quickly with the information readily at hand.

Techniques a mediator uses in such a situation include pressing, inaction (such as simply monitoring the dispute), or quickly siding with one disputant. Minimal use will be made of the thorough and time-consuming compensatory techniques (i.e., the reflective techniques or information gathering).

In addition to its volatility, the importance of the dispute and its chances for escalation determine whether the mediator uses a compensatory or heuristic strategy. Specifically, important disputes—those that are apt to escalate and those without time limits—dispose the mediator to use compensatory (versus heuristic) techniques. Similarly, if the disputants are highly valued by the mediator or are of high status, then the mediator is apt to rely on compensatory techniques.

Mediator's goals. To this point, we have noted that feasibility, perceived cost, and the mediator's decision strategy all determine the techniques he or she uses. In addition, the mediator is guided by his or her goals. It is well documented that such goals strongly affect an individual's behavior. In the motivation literature, for instance, scholars (e.g., Locke 1991) note that individuals' behavioral choices are influenced by their goals. Likewise, in the conflict resolution literature, Conlon, Carnevale, and Murnighan (1994) reported that third parties' preferences affect their behavioral choices.

In mediation, numerous goals can affect the mediator's choice of techniques; one such goal that surfaces frequently in the literature is neutrality. Often, mediators hold to a goal of being neutral and appearing neutral in their mediation, and they are advised by a host of social pundits as to how they should pursue this goal (e.g., Rifkin, Millen, and Cobb 1991).

This tandem goal—to be neutral and appear neutral—does not, we predict, affect which techniques a mediator selects and applies; rather, it motivates the mediator to be equal in his or her interactions. Consequently, whichever techniques the mediator applies to one side will also be applied to the other.

Although the neutrality goal dictates equal application for most techniques, it should curtail the use of a few. To use siding is to appear and probably be biased. The pressing and distributive techniques are also foresworn because the appearance of bias comes with their application.

MEDIATION OUTCOMES

Having examined the determinants of mediation, the mediation itself, the approaches mediators employ, and the determinants of these approaches, we now describe the most bountiful arena for the past decade: mediation outcomes. Because the munificence of the literature has generated an accompanying complexity, a succinct road sign is useful for this section. The literature indicates that the outcomes from mediation stem from two sources: the aggregate (i.e., entire) mediation process and the individual techniques used by the mediator. Because the aggregate outcomes are more extensive, we report them first. In doing so, we note (as depicted in Figure 1) that these outcomes accrue to the disputants, mediator, and other third parties.

AGGREGATE OUTCOMES

The organization and conceptualization of these results are aided by Table 2, which provides a thorough listing of the positive outcomes or benefits reported in the recent

TABLE 2
Mediation Outcomes/Benefits

<i>Recipient</i>	<i>Outcome</i>	<i>Reference</i>
Disputants	Agreement	Brett, Barsness, and Goldberg (1996)
	Satisfaction	Bush (1996); Depner, Cannata, and Ricci (1994)
	Efficiency (cost-effective and expedient)	Coltri and Hunt (1998); Elleman (1997)
	Improved relationships	Johnson and Johnson (1996a); Johnson et al. (1995); Joseph (1996)
	Procedural justice	Bush (1996); Kozan and Ilter (1994)
	Favorable agreements	Umbreit and Coates (1993)
	Empowerment	Folger and Bush (1996); Severson and Bankston (1995)
	Improved problem solving	Fisher (1997); Smith (1996)
	Restorative justice	Bazemore and Griffiths (1997); Sikora and Doll (1994)
	Higher compliance/ implementation	Gaschen (1995); Thoennes (1997)
Mediator	Reputation	Touval (1996)
	Social skills	Day-Vines et al. (1996); Shulman (1996)
Third parties	Time for other activities	Camerson and Dupuis (1991); Shulman (1996)
	Peace and decreased violence	Day-Vines et al. (1996); Tabish and Orell (1996)
	Favorable agreements	Cohen, Dattner, and Luxenburg (1996)

literature and indicates that the outcomes flow to three groups: the disputants, the mediator, and other third parties.

Disputants' outcomes. The major outcome for the disputants is the agreement or settlement of the dispute, and the literature indicates that mediation is effective in producing this. In earlier studies, the settlement rate on average was approximately 60%, with a range generally between 20% and 80% (Kressel and Pruitt 1989). Current reports are somewhat higher, with the average settlement rate being about 75%. Specifically, in divorce mediation, Irving and Benjamin (1992) reported a settlement rate of 76%. In student mediations, Lupton-Smith et al. (1996) found 85% settlement. From the legal mediation arena, Thoennes (1994) reported a 60% to 80% agreement rate in child protection mediation. In civil cases, Henderson (1996) found 63% settlement, and Brett, Barsness, and Goldberg (1996) reported a 78% rate. In seniors mediating with seniors, Cox and Parsons (1992) found an 82% agreement rate.

When reporting these settlement rates, we need to emphasize that they vary considerably from arena to arena. Some disputes, such as those among elders or between elementary school students, are rather simple and easily mediated. Therefore, they have a high settlement rate. By contrast, international disputes are complex and quite difficult to mediate; therefore, they have a much lower rate of settlement.

The primary disputant-specific outcome appears to be satisfaction (e.g., Bush 1996). The literature strongly indicates that disputants draw satisfaction directly from mediation itself (Depner, Cannata, and Ricci 1994) for two reasons: first, the media-

tion process has value in that it is cheaper (Coltri and Hunt 1998), swifter (Severson and Bankston 1995), and more enduring (Elleman 1997) than other forms of conflict resolution. Second, disputants perceive procedural justice in the process (Bush 1996).

In addition to these benefits from the mediation process, the disputants find that the agreements that mediation spawns free them from the ongoing emotional, time-consuming entanglement. Perhaps just as important, mediation results in agreements that are tailored to the disputants' needs and meet the disputants' underlying interests. As a result of being the product of superior joint decision making and fostering improved disputant-disputant relationships, the mediated agreements are more thoroughly implemented (Gaschen 1995; Thoennes 1997).

Mediators' outcomes. Perhaps the knee-jerk assumption is that mediators receive their outcomes principally, if not solely, from the dispute's resolution. That is, if they successfully resolve the dispute, they glean credit, prestige, satisfaction, future calls to mediate, and so on. The literature from the past decade does indicate that multiple benefits accrue to the mediator via the dispute resolution. For example, he or she is perceived favorably and acquires a reputation for effectiveness (Touval 1996) when he or she lands a settlement.

Yet, benefits also come directly from the mediation process even if the dispute is not settled. Day-Vines et al. (1996), for example, noted that mediation enhances the mediator's cultural sensitivity. And Shulman (1996) indicated that some benefits are reaped beyond the mediation arena. Specifically, Shulman found that mediation improves the self-esteem, grades, and attendance records of student mediators; in addition, it fosters improved relations with their colleagues.

Third parties' outcomes. We note that some outcomes accruing to third parties (other than the mediator) come directly from the mediation process. Several studies (e.g., Johnson and Johnson 1996b) note that peer mediation in schools results in fewer complaints being referred to teachers or principals, and Day-Vines et al. (1996) indicated that peer-student mediating helps to provide safer schools. Tabish and Orell (1996) observed that gang mediation helps to provide safer campuses for students.

In the court system, we detect a similar result in custody mediation. Third parties—in this case, children—benefit. Kitzmann and Emery (1994) contended that mediation shields the children from the hostility of the conflict. Emery, Matthews, and Kitzmann (1994) noted that mediation calls public attention to the destructive outcomes that parental conflict inflicts on children.

OUTCOMES OF SPECIFIC TECHNIQUES

The studies reported above have examined the effects of overall mediation on the outcomes to the disputants, mediator, and third parties. Although these studies are quite numerous and their results quite informative, they do not indicate which specific techniques within the mediation produce these effects.

The studies that do provide this information are disturbingly sparse. Specifically, fewer than 20 have addressed this issue in the past decade. Within these studies, two

general trends emerge: first, there is some agreement that a high activity level by the mediator produces desirable results (e.g., Henderson 1996; Kelly 1996). The second grouping of research indicates which type of “high activity” is most productive for mediators. In general, the finding is that mediators are most effective when they attempt to improve the relationship between the disputants, rather than pushing for settlement or focusing on facts (e.g., Donohue, Drake, and Roberto 1994; Kressel et al. 1994; Pruitt 1995).

OUTCOME DETERMINANTS

Having reviewed the approaches mediators take, the determinants of these approaches, and the outcomes of mediation, we now proceed to the final topic indicated by Figure 1, the determinants of the outcomes.

In previous decades, scholars have focused principally on factors that intervene in mediation’s effect on the aggregate outcomes, that is, the settlement of the dispute (ignoring somewhat the effects on outcomes accruing to the various parties). Here they noted that the level of conflict, availability of resources, type of issue, and commitment of the disputants to the mediation were the major mitigating factors. To some extent, the recent literature rehashes the previous findings.

For instance, we find that as the level of conflict increases, the probability of settlement decreases (Depner, Cannata, and Ricci 1995). We once again learn that mediation is unlikely to result in settlement when the disputants have limited resources. In addition, we find that the mediator’s capability to bring resources to the table increases agreement (Touval 1998). There is continuing evidence that disputes over some issues are more difficult to settle. For example, Henderson (1996) reported that disputes over large amounts are less likely to be mediated successfully, and Whiting (1994) noted that single-issue disputes are less likely to be settled via mediation because they do not permit trades among items.

The disputants’ commitment and receptivity to mediation increase the mediator’s effectiveness; that is, they lead to more settlements (Wissler 1995). In addition, the community’s (i.e., third parties’) commitment to mediation increases its effectiveness (Joseph 1996).

In addition to these four intervening factors—noted in earlier and current studies—others have been detected recently. They include mediator rank, disputants’ power, stage of the conflict, and visibility of the mediation. Mediator rank is positively correlated with the settlement of disputes (Bercovitch and Houston 1993), and this finding—that high-status mediators are more apt to obtain agreements—is consistent with the earlier observation that mediators who can bring resources to the table are successful in obtaining agreements.

The second new factor—effects of power—indicates that mediators’ techniques are likely to lead to an agreement when the disputants’ power is balanced (Nickles and Hedgspeth 1991) and when both sides have the support of their constituencies (Bercovitch 1996). The stage of the dispute is also viewed as a critical factor (Kriesberg 1991) in determining the effectiveness of mediation. Mediation is apt to be

less effective early in the dispute when the parties have not experienced high costs from the conflict, and it is also likely to prove futile if applied so late that the conflict has escalated.

A final intervening factor is mediation's visibility (Assefa 1992). High visibility seems to be detrimental to settlement because the disputants do not have a "safe space" to openly discuss issues with the mediator, admit their faults, or follow suggestions and cooperate with the mediator. Rather, the disputants seek to appear tough and impress their constituents.

Although the current research has corroborated and complemented many of the findings from earlier years, it has also made a significant advancement. Previous research focused on factors that mitigated the effects of mediators' techniques on the agreement. Current works report factors that mitigate mediation's effect on the outcomes to the disputants and the mediator (Figure 1).

Shemberg (1997), for example, reported that external forcing greatly affects disputants' outcomes. When one side is forced to participate in the mediation, its power is reduced, and so are the payoffs. Although forced participation will not reduce the settlement rate (Brett, Barsness, and Goldberg 1996), it will reduce the forced disputant's satisfaction, especially if the forced disputant is already weaker than the opposing disputant (Grillo 1991).

For mediators, we find that confidentiality largely mitigates their outcomes and satisfaction. Mediators, in general, feel that they must be able to guarantee confidentiality to the disputants (Kirtley 1995). This allows the mediator to develop trust with each disputant, improve the opportunities for agreement, and glean satisfaction for a job well done (Brown 1991). When a mediator is denied confidentiality—because of a law or court ruling—then he or she is denied the above benefits and finds the task less satisfying.

THEORY DEVELOPMENT

When we sum the above results and modify the ordering somewhat, a framework evolves that facilitates theory building and an extension of the literature. In essence, the literature indicates that eight factors influence whether mediation results in settlement: conflict level, type of issue, stage of the conflict, disputants' relative power, mediator's resources, disputants' commitment to mediation, mediator's rank, and visibility of mediation.

Using Lewin's (1951) force-field analysis, we note that the first four factors—conflict level, type of issue, stage of conflict, and disputants' relative power—raise conflict. This conflict can be considered a force that restrains the effectiveness of the mediation approaches.

By contrast, the second four factors—mediator's resources, disputants' commitment to mediation, mediator's rank, and visibility of mediation—increase the power of the mediation process (Deutsch 1973), which is a driving force that enhances the effectiveness. Using the force-field model, it seems reasonable to predict that the relative power of the two forces—conflict versus mediation—will determine the extent to which the mediation approaches provide settlement/argument. The greater the conflict

force, the less effective will be the mediation approaches. And the greater the power of the mediation process, the more effective the approaches.

This juxtapositioning underpins a broad hypothesis that any factors that enhance conflict will restrain the mediation's effectiveness. More specifically, we hypothesize that because disputant anger, commitment to position, distrust of the other, distributive behavior, status differences, and past failures to resolve disputes all enhance conflict (Wall and Callister 1995), they restrain the effectiveness of the mediation approaches.

The second broad hypothesis is that any factors that increase the power of the mediation process magnify the effectiveness of the mediation approaches currently being employed. Among these factors, we feel, are the formalization of mediation, the number of mediators handling the dispute, the length of time the mediation has been practiced, the size and power of the mediator's constituency, the extent of the mediator's network, the affability of the mediator, the perceived spiritual support of the mediator, and the absence of other dispute resolution mechanisms.

DISCUSSION

In this article, our primary goal was to present a consummate review of the mediation literature from the past decade and organize it in a comprehensive manner. This literature, we found, could be delineated along two facets (Figure 1). The first is a descriptive literature, which indicates the nature of mediation itself, the approaches or techniques that mediators use, and the outcomes from these approaches. The second facet of the literature reveals more of a theoretical bend. Herein, we find factors that determine whether mediation takes place, the determinants of the approaches that mediators use, and the determinants of the outcomes to the disputants, mediator, and third parties.

Organizing and presenting this literature, we feel, contribute to the field. In addition, our extensions of the theoretical aspects of the literature—the determinants of the mediation, approaches, and outcomes—also represent a contribution. When developing propositions about the determinants of mediation itself, we relied principally on expectancy theory. Here, we noted that disputants seek mediated assistance from third parties when the payoffs from the mediation are expected to be higher than those from the current unassisted interaction and when the mediation is expected to yield higher benefits than other alternatives such as arbitration, open conflict, or termination of the relationship. Third parties are also influenced by these factors, such that they are apt to provide assistance when their mediation provides more benefits than does not mediating.

When developing theories concerning the determinants of the mediator's approaches, we relied on Carnevale's (1986, 1992) strategic choice model and on decision theory and goal theory. With these as bases, we developed propositions that mediators eschew techniques that are not feasible or that have a high cost. From the techniques that remain, mediators select the appropriate technique according to heuristic/compensatory decision strategy. When doing so, the mediators also choose techniques that are aligned with their goals.

Finally, we used force-field theory as the basis for propositions about the determinants of outcomes to the various parties. In doing so, we posited that factors that enhance the force of the conflict reduce the effectiveness of the mediation approaches, and those that increase the power of the mediation process enhance the effectiveness of the approaches.

Shifting from our review to the literature itself, we conclude that mediation has advanced significantly into many arenas over the past decade. In international, environmental, school, divorce, organizational, consumer, and sexual harassment disputes as well as in other realms, mediation is being practiced, described, studied, prescribed, and proscribed. Moreover, the articles presenting this activity yield a large, complex literature intended to inform and guide practitioners and researchers.

This progression into multiple territories, along with the literature covering it, raises questions about the advancement of the mediation field during the past 10 years. The primary query is whether preexisting practices, knowledge, and investigations have simply been applied to mediations in new territories or if the recent applications have been accompanied by and contributed to advancements in the field. Our conclusion is that there has been both advancement and retrofitting.

We are pleased to see an emergence of a literature in which the authors are prescribing goals for mediation as well as the approaches and outcomes for third parties. Also, we are impressed by the recommendation that mediation be used in combination with other third-party processes such as psychotherapy, consultation, counseling, and interpretation. This tandem approach should enable mediators to better assist disputants in dealing with their emotions and handling the social-psychological interactions with each other. A drawback of this approach is that it implies that mediators who are equipped with strong social process skills can mediate any dispute. Realistically, they cannot because the disputes encountered are often quite technical (e.g., they can deal with sophisticated areas of genetics, computer design and software, etc.) and thereby require problem solving as well as social skills. This being the case, we suggest mediators—when necessary—be teamed with partners of technical expertise so that the mediator can focus on the social aspect of the interaction and the partner can contribute the technical guidance.

We felt that authors were, for the most part, rediscovering the wheel when they discussed the outcomes to mediation. We were pleased to find stronger coverage of third-party outcomes than in previous years, yet the reports of outcomes accruing to the disputants and the mediator appeared somewhat redundant with past accounts.

More disappointing than this redundancy was the continued focus on the outcomes of the aggregate overall mediation process rather than on the outcomes of specific techniques. A thorough reading of the literature indicates that hundreds of articles have lately been published reporting the outcomes of the overall mediation process; however, during the same period, less than two dozen articles have reported the effects from separate techniques. Consequently, we are left with some serious questions about mediation. The primary one is, Does it matter what mediators do as long as they are highly active and attempt to smooth the parties' relationship? A related question is the following: What techniques should mediators use? And how can mediation be

improved if we are uncertain as to which techniques work and which ones are ineffective? It is hoped that some of these questions will be studied in the next decade.

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