

## Interpersonal Conflicts: Where Gestalt Therapy Meets Mediation<sup>1</sup>

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### A B S T R A C T

Mediation is a voluntary process in which parties in conflict try to reach an agreement by negotiating. An impartial person, the mediator, supports them. When conflicts are solved in legal proceedings, human needs and interests often are not adequately considered. When therapists work with only one party in conflict, the conflict dynamics and the social, economic, and political fields are not sufficiently examined. If Gestalt therapists worked as mediators, all parties in conflict would benefit from the many useful skills of the Gestalt approach.

### Introduction

I write this article as a former practicing lawyer who had to solve conflicts in the world of law, and as a Gestalt therapist who learned to understand human beings and their conflicts in a more profound way. I write also as a mediator who helps people to solve conflicts in a fair and creative way.

Mediation is a voluntary process. When two or more parties in conflict are willing to solve a conflict without an authority or a court, they choose an impartial person, a mediator, in order to find a solution through negotiation. Mediation has a long tradi-

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tion in many world cultures and is historically documented in Africa, China, Japan, Arab cultures, and in Europe (Duss-von Werdt, 2005). In America, it was promoted increasingly during the 1970s as an alternative means of dispute resolution with respect to family conflicts, and mainly used in separations and divorces. Roger Fisher and William Ury made a major contribution to mediation in 1981 through the Harvard Negotiation Project, described in their book, *Getting to Yes*. Their method has become established and is appreciated not only in the business world but also in many other fields. Mediation is nowadays well recognized in Canada, Europe, and South America. Although it is still best known in the field of family conflicts, it is being used more and more to resolve conflicts in schools, business, and neighborhoods, as well as in penal cases involving victims and offenders.

The mediator's most powerful skill is his or her attitude toward the clients: the mediator sees parties in conflict as responsible human beings and "experts" with regard to their lives. Therefore, they also are responsible for the outcome of the negotiations. This is just one important junction of mediation and Gestalt therapy. There are others, as I shall demonstrate. My experience has made me aware of how well equipped Gestalt therapists are for dealing with interpersonal conflicts. In this article, I wish to encourage and motivate readers to include the use of mediation in their work. Mediation training is offered everywhere and is open to all professions, not only to attorneys. In my opinion, psychology is more important with respect to mediation than knowledge of the law. A therapist-mediator can always collaborate with lawyers in the background.

The first part of the article covers my experience with conflict resolution in legal proceedings. The second part describes what characterizes mediation and how it works practically. The third part is about the way therapists mostly deal with interpersonal conflicts. The fourth part demonstrates why the Gestalt approach is viable for mediation.

### **How Conflicts Are Resolved in Legal Proceedings**

For twenty years I was a lawyer, and for several years, I was a judge. Conflict resolution was my daily subject. But I was not satisfied with the outcome of legal proceedings. Judgments normally are based on the "tip of the iceberg"; that is, the legal aspects. Lawyers and judges are used to seeing conflicts as "legal problems," which is a reduction of reality to its legal aspects. In reality, there are no legal problems; things are simply solved on that basis. Often the law does not consider aspects such as the relationship of the parties, their emotions, and their human needs and interests. Victory and defeat characterize the scenario. One party wins and one loses, and many times all parties lose. Bad feelings and injuries remain. Moreover, legal solutions are based on what went before. What was done or omitted in the past decides the future. Let me demonstrate by way of an example. A homeowner builds a high wall around his garden to protect his privacy. The neighbor is bothered by a loss of view and light, but wants to resolve the conflict peacefully. Half a year later, the neighbor takes legal action. In court, he is told that it is too late. The statutory limit is three months. In legal terms, the

wall has been accepted. In reality, the conflict is not resolved and the wall will remain a problem for both neighbors. Moreover, legal proceedings can be an incredible waste of time and money. And often they are the end of a personal or business relationship, which the parties would have liked to maintain. Of course we need the law: it offers solutions for cases in which negotiation is not possible. Nevertheless, the law is not the only reference point for conflict resolution; in many cases, it is too schematic. The parties in conflict, in fact, are able to find solutions that better suit their individual needs and interests.

### **What Characterizes Mediation and How it Works**

*Choosing mediation and a mediator:* Parties in a private or business conflict need not end up in court. A working team in conflict need not break up. A boss need not sack his employee. A couple need not fight in court regarding the outcome of their divorce. They can decide to negotiate, assisted by an impartial person; if they agree, they might even choose the mediator together. Deciding to negotiate and choosing an independent person who all parties accept and trust is a significant move. It is the first step towards cooperation and responsibility.

*The mediator:* Impartial, and connected with all parties: Mediators are most often private professionals and not a government agency. They must be impartial. This means that they are not involved in the conflict and therefore not interested in the outcome. They have no close relationship with any of the parties. And they are impartial concerning the subject of the conflict. Yet, the mediator is not neutral. She or he explores the parties' positions, needs, and interests emphatically and with true interest. She or he establishes contact with all the parties and demonstrates that different views can be treated respectfully. The mediator forms a bridge between the parties and facilitates increased understanding between them.

*Proceeding by agreement:* By choosing mediation, the parties determine the course of action and assume responsibility for it. In court, the law lays down the proceedings. The mediator asks instead, "Who wants to speak first? Which issues shall be discussed? With which will you start? What is the next step?" and the parties make agreements about every step.

*Face to face-relationship and intimacy:* Normally all the parties are present at the sessions. This makes negotiations fully transparent and the mediator does not hold any secrets. The parties cannot hide behind lawyers. When there is a lot of tension, the parties need to have courage, but the process is authentic and highly efficient. The parties get to know each other better; intimacy grows, and that is the key to agreement.

*Looking forward:* Mediation is concerned with the present and future needs and interests of the parties. Starting from the actual conflict situation, mediation does not deal with mistakes that might have been made in the past. It looks at the present and aims at dealing successfully with the situation going into the future.

## How Mediation Works: The Five Steps

When I talk about five steps, I am talking about a model, a concept. In reality, we often have to proceed by moving back and forth or circling about, and even insert more steps. The model simply offers a framework to hold on to and illustrates the most important parts of the process.

### *First step: Developing the issues and assembling the necessary information*

At the outset, the parties present their positions concerning the conflict. They formulate all the issues and assemble the necessary information, such as documents and legal papers, figures, personal plans, and intentions. Mediation cannot be fair if all the parties do not disclose the pertinent data. The mediator watches the process carefully and steers it in the direction of full openness. By now, the parties know each other's positions. Here are some examples: The businessman says: "My business partner has to pay me 5000 euros. It is set in the contract." His business partner says: "No, I shall not pay you anything. The contract is not clear." The wife in divorce says: "I claim the house, because I put all my money into it." And her husband says: "I claim the house, because I am the owner." The positions taken here are only the tips of the icebergs.

As the issues are identified, areas of agreement and disagreement are clarified. Tension arises when the parties see their differing positions more clearly; this is a delicate moment. At this stage of a mediation, each of the parties often tries to put pressure on the other in order to steer the solution in their direction. They just want to win and get out. The mediator, however, lets the tension rise and tries to make the parties understand that it is a normal part of conflict. An experienced mediator puts trust in the process and in the parties' ability to reach a resolution. As Gestalt therapists, we do the same.

### *Second step: Developing understanding: needs and interests*

When the necessary information has been assembled and the parties know each other's positions, the most important part of the work can begin; we are at the heart and core of mediation. Since the mediator does not function as a judge to determine individual positions and rights, s/he asks the parties: "Why do you want the house? Why is it so important to you? What does it mean to your life to get these 5000 euros from your business partner?" or "Why is it so important not to pay the 5000 euros?" This is not the same "why" that looks to the past for reasons. It is the "why" that asks for the purpose and aims toward the future. It addresses the deeper layers beneath the parties' positions. In other words, the mediator tries to make the parties in conflict understand themselves at a deeper level.

The astonishing thing is that most of the time, the parties do not know the recondite reasons for their positions. When fear and aggression are present in moments of conflict, the parties stick to their positions and defend them as their fortress. As therapists, we know that perception grows narrow in conflict situations. Guided by the mediator's questions, the parties start to search for answers and arrive at the personal level. This process is sometimes hard work, but eventually the businessman may say: "My firm is

new and I am short of money. If I don't get the 5000 euros I cannot pay my employee. This will mean the blowing-up of my business. I am the first in my family to run his own business. My family is very proud of me, and I shall be terribly ashamed if I fail." His partner may say: "That hits me. For me it is similar. This year, I promised my wife our first big holiday. We have not been away for years. And I am afraid to lose her respect when I have to tell her again that a holiday is not possible." The wife in divorce claiming the house may say: "I lost my husband. I want to live in the house because I need something that remains. I am not interested in the property. But I need some continuity in my life." And her husband may say: "I don't want to live in the house. But it is a family heirloom that means a lot to me. It is my grandparents' house and it has a lot of memories for me." What come of this process are human needs and interests—hope, fear, pride, insecurity, love, shame. And the parties start to understand that there are legitimate concerns on both sides.

#### *Third step: Developing options*

When needs and interests are disclosed, the mediator invites the parties to develop options for an agreement. The brainstorming begins. Realistic or unrealistic, reasonable or unreasonable, every idea for a resolution is collected. Creativity governs the situation; perhaps the mediator adds an option, but s/he never judges.

#### *Fourth step: Evaluating options and finding resolution*

Once the parties have collected all the options and finished brainstorming, they start evaluating which options are close to the expressed needs and interests, and which correspond less well. When the spirit of mutual understanding rules, it is much easier to find a solution. Maybe the husband lets his wife have the house so long as she feels at home there, and the wife is ready to do without the money she put into the house until the husband's financial situation has improved. (In court, the man would get the house, since he is the owner. But in order to pay off his wife, he would probably be forced to sell it. So, the house would be lost for both parties.) Maybe the two businessmen agree to split the 5000 euros, since the contract is really not clear, and they find out that 2,500 euros are sufficient to pay the employee's salary and to go for a holiday.

#### *Fifth step: Concluding agreement*

The parties conclude the agreement on the basis of needs, interests, and evaluated options. An agreement arrived at during a mediation can be similar to what a judge would have decided. But it is the parties' agreement, which they have worked out and chosen. And this is crucial. The agreement can also be very different from what a judge would have decided. In that case, the mediator informs the parties about the law. When they stick to their resolution, it is because it is better suited to their personal sense of fairness than any form of legal judgment would have been.

### **The Limits of Mediation**

In my experience, mediation is undoubtedly a more peaceful, more creative, more

effective, and less expensive method of conflict resolution than legal proceedings. Nevertheless, it does not work in every situation or with everybody. When hatred, feelings of revenge, or other destructive behavior patterns dominate, when conflict has come to a head, the mediator does not hold a magic wand. The parties must be willing and able to master their destructive impulses and go the way of cooperation. They must be interested in an agreement that is fair to everyone. If they are not motivated in this way, there are still lawyers and courts. In some situations, it is easier to accept the judgment of an authority than to negotiate face to face.

Yet, on the economic and political stage, it is sad to see how little emphasis is sometimes placed on nonviolent dialogues and fair solutions. Power struggles and endless wars are the result. Nobody cares for the needs and interests of the affected population when politicians decide to “solve” a conflict by waging war. By supporting mediation in private conflicts, we perhaps could set an example of nonviolent conflict resolution for political conflicts and international relationships.

### **Working on Interpersonal Conflicts in Gestalt Therapy and Mediation**

Gestalt therapists can work on interpersonal conflicts in different ways. They can explore a conflict situation with the individual client in therapy; that is to say, work with only one party in a conflict. This work aims at increasing awareness of how the client experiences the conflict and what he or she adds to the state of affairs. It can help the client to develop more satisfying ways to deal with the situation or contribute to a possible resolution. This is therapeutic work on interpersonal conflicts in the interest of personal growth.

A Gestalt therapist can also work with both or all parties in conflict (*e.g.*, with couples or business partners, families, neighbors), if they are willing to come. Then the focus of interest is the way the clients create their relationship and conflict situation. These clients aim at becoming more aware and understanding better how they block, weaken, or hinder each other. They want to learn how they could support, feed, and strengthen each other. This is therapeutic work on interpersonal conflicts in the interest of the relationship.

There are also conflicts, however, in which the clients need resolutions to practical problems. Mediators know that in many cases there is an unresolved relationship conflict (mainly in separation and divorce), and they can simply facilitate the negotiations about the practical consequences (Duss-von Werdt, 2008). Couples in separation and divorce need resolutions for financial questions, care for children, housing, and property. Business partners who struggle with an unclear contract want to clarify the contract. An employee who has been dismissed wants to negotiate the consequences of the dismissal. In these cases, therapeutic work is not sufficient and normally not sought. Some of these clients have been in therapy or coaching sessions before and just want to talk about practical issues. That is why I do not mention Gestalt philosophy in these cases. I use it as a background for my work as a mediator. A Gestalt-mediator, however, can address the unresolved personal conflict when it appears (and it very often does). With the clients' permission (I always ask for it, since the contract is

about mediation), the mediator can even work on it. Mediation sessions can include therapeutic sections. That is why it is useful when the mediator is also a therapist.

Mediation also has a therapeutic effect even when the parties' way of being together is not explicitly the subject. When parties in conflict explore their needs and interests, looking inside and getting in contact with what they meet there—emotions, needs, wishes, hopes—and when they start to listen to each other instead of attacking and defending, a change in the relationship takes place, even though it may be about to end. Many clients tell me that their way of talking and listening to each other has improved through mediation.

On the other hand, it would be useful for clients in conflict if Gestalt therapists were familiar with the knowledge and skills of the mediator and with the mediation process described above. Therapy could move fluidly on to mediation, as is often my experience. In mediation, the social, economic, and political contexts of the conflict are included and practical aspects such as financial considerations, organizational questions, workplace conditions, and legal issues are emphasized more than they are in therapy.

Gestalt philosophy facilitates mediation. The close relationship between the Gestalt theory and practice and the basic principles of mediation is obvious and impressive to me. I even dare say that Gestalt is implicit in mediation. In what follows, I shall describe some important ways in which Gestalt philosophy and mediation intersect.

### **What Gestalt Offers for Conflict Resolution**

#### *The Gestalt attitude*

As a Gestalt therapist, I meet my clients as an authentic human being, with my personal life story, my talents, and my limitations. I offer myself as a companion to my clients and see them as equals and experts concerning their own lives. Gestalt as an attitude means: I am ready to explore with you what you experience, what you need, and how you can get it. We meet in the spirit of Martin Buber's "I and Thou." As a mediator, I do not know what the best solution is for the clients in conflict. Only they know about their needs and interests. I am a companion on their journey.

An example: Clients in mediation frequently ask: "What solution would you suggest?" I answer: "I cannot tell you. If I think for you, my own values and experiences guide me, and yours are different. Nevertheless, I will try to help you find a solution." Client: "But you know the law." Mediator: "Yes, but the law offers just one possible solution, and maybe it will not suit you. You are the experts of your conflict."

In legal proceedings, the attorney takes the lead, and the judge resolves the conflict as an authority. The law decides the solution. This solution very often does not correspond with the parties' needs.

#### *Self-awareness is the tool*

For Gestalt therapists, self-awareness is basic. We are trained to become familiar with the light and shadow of our existence. Of course, we are taught methods, skills, and theory. But in my eyes, nothing is as important and useful as the experiences we make in our own darkroom. I am convinced that our clients can go only as far as

we dare to go. Wherever we have our own forbidden doors, they cannot enter either. Clients in conflict more often than not are paralyzed by fear, bursting with hatred, and ruled by dreams of revenge. Through our training in self-awareness, we experience all of these emotions. But we also know about our secret potential, our love, and our compassion. This knowledge helps not only the therapist, but also the mediator to believe in the clients' potential and hidden beauty. And indeed, in the middle of hard negotiation, generosity, friendliness, and understanding appear and move things toward a good resolution.

The more familiar we are with these feelings, the more we can include them in our work with conflicts and offer our self-awareness to the clients. An example: Two clients, obviously both desperate and helpless, start to attack and insult each other in the worst possible manner. A accuses B of having destroyed his life and B reproaches A for having offended and neglected her for years. The atmosphere is full of bitterness and sarcasm. I listen for some minutes, at first with anger. Then, looking deeper inside me, I feel an incredible pain. This knocking each other down is so painful that I cannot stand it any longer. I tell the clients how I feel. They remain silent and slowly come into contact with their own pain and sadness. My initial anger toward them turns into compassion—the compassion I also granted myself by recognizing my limits in tolerating such animosity. Eventually we talk calmly about the next steps.

Lawyers and judges, on the other hand, normally are afraid of the emotions at work and try to stay away from them. When they surface, nevertheless, the legal experts feel helpless and scared and tell the parties: “Your feelings have nothing to do with the case.”

### *Subjective truth*

As Gestalt therapists, we know that there is always more than one truth. There are the facts about the case on the outside. But there is also the inner world, the way a client experiences the situation and assesses it. This is his personal and subjective truth. An example: In the first session of a divorce mediation, I usually say: “If you are ready to tell me something about your marital conflict, just in a few words, I would be grateful. We are not going to work on it, but the conflict will be with us in the room.” And I add: “And I am almost certain that I shall hear two different stories. Both of them are true.” Many times, I see the relief in the clients' faces when they hear the last sentence. Recently, a client said: “I am so glad to hear that. We have always argued about the truth.”

In mediation, the subjective truth is crucial in order to reach a satisfying solution. The law, however, is based on categories such as right and wrong, true and untrue. There cannot be more than one truth. This stance produces black-and-white results. In mediation, as in Gestalt therapy, different subjective truths amalgamate into a multi-colored solution.

### *The spirit of exploring*

As Gestalt therapists, we invite the client to explore her experience, to heighten awareness of where she is, what she feels, and what she needs. We ask questions such

as, “What does it feel like?” and, “What does this mean to you?” As Gestalt therapists, we do not judge what is wrong or right as they do in the world of law, apart from special situations when we, as practitioners, have to take up a clear position. We ask the client instead: “What are the consequences or risks of taking such an attitude?” and, “Can you take responsibility for your stance or your actions?”

As a mediator, I ask exactly the same questions. I help the parties explore what serves their needs best. An example: The mediator asks the wife (see above, “How Meditation Works: The Five Steps”): “Do you think you will be okay in the house where you lived together with your husband?” Wife: “Yes, of course, it’s a comforting thought to stay there. Why do you ask?” Mediator: “Maybe it was out of my concern for you. There are all those memories filling the house.” Wife: “Yes, that part is beautiful for me.” (Somebody else could have answered: “Oh—I shall have to think about it; all those memories might be a disadvantage.”)

### *Focusing on the present*

As Gestalt therapists, we support the client in becoming aware of what goes on in the here and now. The past, though an inalterable fact, may not dominate the present or the future. We can try something new in every moment of our life. This Gestalt belief is incredibly helpful in the sphere of conflict resolution. Any conflict has a history. The mediator, however, asks the parties about their actual needs and interests. Then, the focus turns to the present. Whatever happened in the past, mediation looks at the present in order to work out an agreement that serves the clients’ needs for now and the future. For example: Two clients want to negotiate about a contract that for unknown reasons has not been signed. They formulate the issue thus: “Why was the contract not signed?” Mediator: “If you put it like this, there is a danger that you get entangled in old stories that you cannot change. If you would formulate it as: ‘What do we need—what should be changed, removed, added in the contract—in order for us to be able to sign it?’ then you are looking more toward the future.”

### *The paradox of change*

Arnold Beisser, stricken by polio and paralyzed for life at age 24, discovered that he and his life changed when he stopped fighting against the situation and allowed himself to be fully where he now was and who he now was. He called it a paradoxical change (Beisser, 1990). In the world of logic, change through becoming who we are is a paradox. Nevertheless, as Gestalt therapists, we experience this truth every day. There is no magic in it. You can only proceed and develop step by step if you first recognize who and where you actually are. In mediation, it is the same. When there is struggling and pressure, there is also resistance and the parties end up in a blockade. However, when they start looking inside themselves to meet their needs and interests, when they stop hiding behind their individual positions and fighting from within those walls, they “become who they are” and offer their true selves one to the other. Then change sets in and doors open. This reminds me of the Tao saying: “Let the thief walk into the open house,” which is also a paradox. Resolutions to conflicts are born when one gives up resistance; they evolve because of who people are and what they actually

need, and not in terms of what they want to get through fighting and pressure. Legal proceedings are fights and follow a pattern of pressure and resistance. That is why court battles can last for years and very often do not resolve the conflict.

### *Responsibility*

As Gestalt therapists, we see our clients and ourselves as responsible human beings. Under whatever circumstances, we must bear the consequences for what we do or fail to do, and nobody else can be accountable for us. Jean-Paul Sartre's existentialism has left its mark on Gestalt therapy. In the field of conflict resolution, responsibility means that we are in conflict, and we are responsible for finding a way out. Choosing mediation means taking responsibility. That is why the mediator says: "The parties own the conflict." Mediators, unlike attorneys and judges, do not take responsibility for the conflict's outcome.

### *The experiential and the creative*

As Gestalt therapists, we are familiar with an experiential and creative attitude towards life. We trust in awareness and creativity and we believe in change and development. We encourage the client to risk an experiment and to learn by it. This ability to trust and to take risks is useful in mediation as well. Personal growth is always possible.

There is always more than one resolution to a conflict. A mediator who trusts in the creative process will encourage the parties to develop different options and play with all kinds of ideas in order to reach a resolution. An example: At the beginning of mediation, the clients have to decide how they will share the costs. Client A: "Of course we will split them. We are two persons in mediation." Client B (quickly, looking down to the floor, in a low voice): "Okay, let's do it that way." Mediator: "You sound not convinced at all. What is going on?" Client B: "Well—yes—that is the way it has always been. I always give way very quickly. I hate fighting." Mediator: "Maybe this was part of your conflict. So, would you like to try out how it is to do it differently and take your position, just for one time? In mediation you have a chance to try something new. What is your opinion about the costs?" Client B: "I earn much less than A, so it would not be fair to share the costs by dividing them in half. I am ready to pay one third, but A will ...." Mediator: "Wait, he will say it himself." Client A: "I did not think of that financial aspect. I agree with B." Eventually A pays two thirds and B one third of the total cost.

I have identified eight reasons why it would be advisable for Gestalt therapists to include principles of mediation in their work. By way of conclusion, and as food for further thought, I should like to mention a ninth that concerns the social and political engagement of Gestalt therapists.

### *Social and political responsibility*

Gestalt was originally a rebellious, existential, and humanistic force in psychology and has been socially and politically engaged from the beginning (Schulthess, 2003).

Moreover, the point of departure of the pioneers of Gestalt therapy was the inevitable interdependence of the individual and his or her environment. Field theory influenced their way of thinking. "We create our systems, and they create us," as Malcolm Parlett puts it in his article, "The Unified Field in Practise" (1997). Therefore, the first Gestalt therapists, Paul Goodman in particular, felt not only responsible for the health and happiness of the individual client, but also for the creation of a healthy society. Social change was a subject for both clients and therapists. If we stand by this basis of Gestalt therapy, there are several implications for our work with conflicts. First, we have to take more notice of the social, economic, and political conditions that create and influence interpersonal conflicts, and we have to include them in our work. Second, we have to promote nonviolent forms of communication and conflict resolution, not only in our respective practices, but also in other fields such as education, economy, and politics. Third, we must raise our voices in public and show that power and violence need not dominate conflict resolution, and that there is an alternative means. By taking this responsibility, we work in the genuine spirit of Gestalt.

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