

NEWS MEDIA AS MEDIATORS

Journalism thrives on conflict.¹ As a classic “news value,” one of a short list of characteristics that make an event newsworthy, conflict gives news stories an important and inherently interesting plot element.² As a result, the normal routines of reporters and editors tend to emphasize extreme voices³ and combative themes⁴ and may make news stories “more likely to escalate a conflict than to pacify it.”⁵

Even so, journalism has had some legendary excursions into conflict resolution. On November 14, 1977, CBS News anchor Walter Cronkite conducted separate, pointed interviews with Egyptian President Anwar Sadat and Israeli Prime Minister Menachem Begin, which led directly to Sadat’s historic visit to Jerusalem.⁶ In 1985, Ted Koppel hosted the first formal conversation between representatives of the African National Congress and supporters of South

¹ See, e.g. HERBERT GANS, *DECIDING WHAT’S NEWS: A STUDY OF CBS EVENING NEWS, NBC NIGHTLY NEWS, NEWSWEEK AND TIME 53* (Vintage Books 1980). (“American news media have always emphasized stories of social disorder, both at home and abroad.”); GADI WOLFSFELD, *MEDIA AND THE PATH TO PEACE 9* (Cambridge Univ. Press 2004). (“Conflict and violence are the mainstays of the news industry, whereas stories about peace are few and far between.”)

² See, e.g., FRED FEDLER, JOHN R. BENDER, LUCINDA DAVENPORT, MICHAEL W. DRAGER, *REPORTING FOR THE MEDIA 130* (Oxford Univ. Press 2005) (“The tension between the subjects creates the conflict that often makes a story dramatic and interesting to read.”); JAMES GLEN STOVALL, *JOURNALISM: WHO, WHAT, WHEN, WHERE, WHY AND HOW 7* (Pearson Education 2005) . (“Conflict is one of the journalist’s favorite news values because it generally ensures that there is an interesting story to write.”).

³ WOLFSFELD, *supra*, note 1 at 20; GANS, *supra* note 1 at 295 (“[J]ournalists, by highlighting, often exaggerate the extent and intensity of disorder.”).

⁴ PROJECT FOR EXCELLENCE IN JOURNALISM, *FRAMING THE NEWS: THE TRIGGERS, FRAMES AND MESSAGES IN NEWSPAPER COVERAGE* (1999).

⁵ WOLFSFELD, *supra* note 1 at 19. *But see* GANS *supra* note 1 at 295 (arguing that the journalists’ exaggerating of disorder is balanced by their exaggerating of the effectiveness of attempts to restore order.)

⁶ Eytan Gilboa, *Media Broker Diplomacy: When Journalists Become Mediators*, 22 *CRITICAL STUD. IN MASS COMM*, 99, 104-05 (2005).

Africa's apartheid system on a series of broadcasts of ABC's *Nightline*.⁷ In 1988, another series of *Nightline* broadcasts brought the government of Israel and the Palestine Liberation Organization onto the same stage for the first time.

Such examples are striking against the backdrop of more typical news reports. The contrast has prompted calls for further exploration of journalism's peacemaking potential,⁸ a subject that has received little attention in research.⁹ An emerging group of journalism scholars and practitioners, sharing a desire to use that potential more broadly,¹⁰ have initiated or facilitated experimental projects¹¹ that draw on conflict resolution techniques to create what is variously called "peace journalism,"¹² "conflict-sensitive journalism,"¹³ and "media intervention."¹⁴ For ease of reference, this paper will refer to this collection of related approaches as *peace journalism*. The term is not an oxymoron, according to at least one advocate in the movement. Canadian journalist Ross Howard¹⁵ argues that conflict resolution is, instead, a natural extension of news gathering and reporting: "A reliable, diverse and independent news media has an almost innate potential for contributing to conflict resolution. It functions as a channel of communication that counteracts misperceptions. It frames and analyzes

⁷ B. Kirtz, *Should journalists be crusaders?* 85 QUILL 4, 10 (1997).

⁸ EUROPEAN CENTRE FOR CONFLICT PREVENTION, *THE POWER OF THE MEDIA: A HANDBOOK FOR PEACEBUILDERS* 15 (Ross Howard, Francis Rolt, Hans van de Veen & Juliette Verhoven, eds., 2003) ("There clearly is a need for a problem-solving, peacebuilding approach to journalism.").

⁹ WOLFSFELD, *supra* note 1 at 8 ("Searching through hundreds of studies on peace building and conflict resolution, it is difficult to find even a passing reference to the press.").

¹⁰ ROBERT KARL MANOFF, *THE MEDIA'S ROLE IN PREVENTING AND MODERATING CONFLICT* (United States Institute of Peace 1997), <http://www.usip.org/virtualdiplomacy/publications/papers/manoff.html>.

¹¹ These international initiatives often target societies where conflict is recent, is ongoing or is seen as developing. For descriptions of a number of these media projects, see generally EUROPEAN CENTRE FOR CONFLICT PREVENTION, *supra* note 8.

¹² ANNABEL MCGOLDRICK & JAKE LYNCH, *PEACE JOURNALISM: HOW TO DO IT?* (Transcend 2000), <http://www.transcend.org/pjmanual.htm>.

¹³ ROSS HOWARD, *CONFLICT SENSITIVE JOURNALISM* (Institute for Media, Policy and Civil Society).

¹⁴ See EUROPEAN CENTRE FOR CONFLICT PREVENTION, *supra* note 8.

¹⁵ Howard is project director for the Institute of Media, Policy and Civil Society, a Canadian charitable organization.

the conflict, identifies the interests, defuses mistrust, provides safe emotional outlets, and more.”¹⁶

This paper explores journalism as a potential method of conflict resolution. Part I compares the norms and practices of journalism to those of facilitative mediation. Part II draws additional parallels between some aspects of journalism and two other forms of dispute resolution: transformative mediation and adjudication. Part III suggests some areas for encouragement and some areas for caution as peace journalists import conflict resolution techniques into news reporting and writing. .

I. JOURNALISM AND FACILITATIVE MEDIATION

By *journalism* this paper means the reporting and writing practices of the news media insofar as they attempt to present an unbiased and accurate account of current conflicts to a broad audience by interviewing and writing about the parties engaged in those conflicts. This definition includes live, joint interviews that reporters sometimes conduct when two or more opposing parties are present simultaneously. It also includes the less immediate process that reporters use when they interview the parties separately. In either situation, parties learn information from each other, generally at the same time that the information is being disseminated to the public.¹⁷ By *facilitative mediation*, this paper means that method of neutral

¹⁶ ROSS HOWARD, AN OPERATIONAL FRAMEWORK FOR MEDIA AND PEACEBUILDING 3-4 (Institute for Media, Policy and Civil Society, 2002).

¹⁷ This is a broader look at journalism’s mediation role than some researchers take. Gilboa, for example, considers that journalists are mediating “only when they debate with the leaders involved in conflicts, represent the positions of their government, suggest specific proposals for negotiation, or conduct ‘bridging.’” Gilboa, *supra* note 6 at 101.

third-party intervention in which the neutral assists the parties' negotiation without evaluating their positions or interests, predicting their relative strength or making proposals.¹⁸

A. Listening to Conflict as a Neutral

The news reporter – like the mediator – routinely listens to opposing sides in a dispute and does so with the intention of remaining neutral, thus meeting two initial requirements of mediation.¹⁹ In doing that alone, reporters sometimes help to resolve conflicts by providing a communication link between opposing sides and contributing to what peace researcher Johann Galtung calls the “great chain of nonviolence.”²⁰ A classic example occurred during India's campaign for independence. Mahatma Gandhi had believed that massive nonviolent demonstrations against British rule would succeed by directly changing the hearts of the colonial leaders.²¹ Instead the colonial leaders' response was brutal. The way demonstrators eventually accomplished their goal was indirect, through the first-hand news reports of Webb Miller, whose United Press stories²² stirred the outrage of larger audiences in the West.²³ To other situations, where simple observation by a third party might put disputants on “good behavior,”²⁴ the news media again bring the added strength of their link to wider public opinion. In the Balkan

¹⁸ See Leonard Riskin, *Mediator Orientation, Strategies and Techniques*, 12 ALTERNATIVES 111, 111-114 (1994).

¹⁹ JOSEPH B. STULBERG, *TAKING CHARGE/MANAGING CONFLICT* 8 (Wooster Book Co. 1987).

²⁰ See JOHAN GALTUNG, J. & R.C. VINCENT, *GLOBAL GLASNOST: TOWARD A NEW WORLD INFORMATION AND COMMUNICATION ORDER?* (Hampton Press 1992).

²¹ BRIAN MARTIN AND WENDY VARNEY, *NONVIOLENCE SPEAKS: COMMUNICATING AGAINST REPRESSION* 138-142 (Hampton Press 2003).

²² “GANDHI'S SALT MARCH. CIVIL DISOBEDIENCE CAMPAIGN. WEBB MILLER'S ACCOUNT, http://www.galileolibrary.com/history/history_page_166.htm (“Suddenly, at a word of command, scores of native police rushed upon the advancing marchers and rained blows on their heads with their steel-shod *lathis*. Not one of the marchers even raised an arm to fend off the blows. They went down like ten-pins. From where I stood I heard the sickening whacks of the clubs on unprotected skulls....Those struck down fell sprawling, unconscious or writhing in pain with fractured skulls or broken shoulders. In two or three minutes the ground was quilted with bodies....The survivors without breaking ranks silently and doggedly marched on until struck down... Then another column formed....They marched slowly toward the police.”).

²³ MARTIN & VARNEY, *supra* note 21 at 140.

²⁴ Lon L. Fuller, *Mediation – Its Forms and Functions*, 44 S. CAL. L. REV. 305, 307-309.

conflicts, for example, the mere presence of television cameras reportedly prevented large-scale killings on a number of occasions.²⁵

In a sense the journalist is thrust unintentionally into this potential mediating role. The reporter may not notice, since many aspects of that role are familiar and overlap the journalism job description. A mediator serves as a host and chair, bringing parties together.²⁶ A mediator serves as a referee during discussions.²⁷ A mediator communicates, translates, extracts information and serves as an agent of reality and a watchdog over the integrity of the process.²⁸ All of these roles could as easily describe Cronkite, Koppel and any number of journalists engaged in their daily work.²⁹ However, the journalist is different from the mediator in some important ways as well. One of these is apparent at the start.

B. Initiating the Process

An early question for a mediator is, “Who are the parties?” In mediation, parties are most often known to each other, advocate distinctly clashing positions and appear to have the ability to frustrate each other’s interests.³⁰ In mediation, the identification of parties begins when the complainant initiates the process and names a respondent. In news coverage, however, it is the *neutral* who initiates the process. The journalist decides what conflict to cover, what angle to

²⁵ Ross Howard, *Media and Peacekeeping: Mapping the Possibilities*, paper presented at the conference of the Working Group on Civil Society of the Geneva Centre for the Democratic Control of Armed Forces in Budapest (Feb. 6-9, 2003). (“The presence of the international media was what was most effective, reflecting the fact that while local norms of humane conduct had broken down there were international standards to be reckoned with, and potential consequences to be avoided.”).

²⁶ CARRIE J. MENKEL-MEADOW, LELA PORTER LOVE, ANDREA KUPFER SCHNEIDER & JEAN R. STERNLIGHT, *DISPUTE RESOLUTION: BEYOND THE ADVERSARIAL MODEL* 266 (Aspen Publish 2005).

²⁷ *Id.*

²⁸ *Id.* at 266-67.

²⁹ See e.g. STOVALL, *supra* note 2 and Davis MERITT & MAXWELL MCCOMBS, *THE TWO W’S OF JOURNALISM: THE WHY AND WHAT OF PUBLIC AFFAIRS REPORTING* 85 (Lawrence Ehrlbaum 2004).

³⁰ STULBERG, *supra* note 19 at 44.

take, and which parties to interview. It is possible that parties will not know each other until the reporter brings them into the news story.

That makes the journalist a kind of free-lance mediator with the enviable ability to select interviewees from among the potential parties and to engage them, rather than the reverse. This arrangement has the potential to further the resolution of a conflict by empowering the neutral to seek out even unwilling parties, eliciting their narratives³¹ possibly softening their images of each other,³² or even compelling communication between them. For example, in the aftermath of the Rwandan genocide, government and rebel leaders refused to be interviewed together on radio. Reporters at Voice of America's headquarters in Washington, D.C., responded by asking both sides the same list of questions and then inter-cutting the interviews to let Rwandan listeners compare the answers. The result, a dissatisfying kind of parallel talk by the opponents, propelled both of them to agree to future joint interviews. Each wanted to be able to respond to the other's claims.³³

However, the reporter's ability to select parties can also be problematic in the context of conflict resolution. Since the reporter, looking for conflict, tends to seek extreme points of view, weaker parties sometimes use a strategy of espousing extreme views in order to be interviewed.³⁴ The result can be a skewed dialogue. In addition, the reporter's standard practice of seeking balance by pairing opposing interviews falls into the trap of presuming that a dispute has only two opposing camps. In this way, news coverage, instead of enlarging public perceptions, may

³¹ The importance of parties' stories is further developed in Lela Love, *Training Mediators to Listen: Deconstructing Dialogue and Constructing Understanding, Agendas, and Agreements* 38 *Fam. & Council. Cts. Rev.* 27 (2000) and in Carrie J. Menkel-Meadow, *Remembrance of Things Past? The Relationship of Past to Future in Pursuing Justice in Mediation* 5 *CARDOZO J. OF CONFLICT RESOL.* 97-115 (2004).

³² WOLFSFELD, *supra* note 3 at 14.

³³ Carol Pauli, *Voice of America as an Example of Peace Journalism*, (unpublished paper presented to the Association for Education in Journalism and Mass Communication, August 2005)(on file with author).

³⁴ WOLFSFELD, *supra* note 5 at 13.

limit them by failing to show the complexities of a polycentric problem³⁵ and obscuring opportunities for creative solutions.³⁶

Furthermore, reporters' selections of stories and interviews are guided by their assumptions about audience interest, so newsroom attention typically rushes to a sudden and significant political event – and then is distracted by another.³⁷ News coverage rarely offers parties the sustained engagement that can be essential to resolving conflicts.³⁸ An unresolved dispute is often abandoned as yesterday's news.

C. Arranging a Neutral Setting

Mediation requires a time and place conducive to talking.³⁹ A standard rule is to provide each party a specific, equal spot in the room and to place the mediator equidistant from them and closest to the door.⁴⁰ The journalist, too, creates conditions to promote participation and communication. As an extreme example, to persuade Israel and the PLO to share a stage in 1988, *Nightline* agreed to erect a symbolic wall between the two sides.⁴¹ Parties refused to speak directly to each other but were able to have a conversation by directing their comments to Koppel.⁴²

³⁵ See Lon L. Fuller, *The Forms and Limits of Adjudication* in *THE PRINCIPLES OF SOCIAL ORDER: SELECTED ESSAYS OF LON L. FULLER* (Kenneth I. Winston ed., rev. ed., 2001).

³⁶ WOLFSFELD, *supra* note 3 at 21 (“This practice makes it extremely difficult for citizens to even consider political ideas that are located outside this space.”).

³⁷ WOLFSFELD, *supra* note 3 at 31.

³⁸ Jannie Botes, Assistant Professor, Program on Negotiations and Conflict Management, University of Baltimore, interview with the organization Beyond Intractability (2003), <http://www/beyondintractability.org/audio/10119>

³⁹ STULBERG, *supra* note 19 at 59.

⁴⁰ *Id.* at 62. The mediator's seat near the door offers a quiet way to discourage withdrawal by one or both parties when a mediation becomes difficult. Journalism has a “gatekeeping” role, also, but its emphasis is on keeping undesired parties and issues *out* of the discussion.

⁴¹ Johannes (Jannie) Botes, *Public Affairs Television and Third Party Roles: The Nightline Debates in South Africa (1985) and Israel (1988)*, 10 PEACE AND CONFLICT STUD., No. 2, 1 at 12.

⁴² *Id.*

This example has less dramatic parallels in everyday news reporting. Even when interviews are done separately, journalism has a unique ability to provide safe, equitable, virtual spaces for any number of parties by placing them on the pages of a newspaper⁴³ or in the airtime of a news broadcast. Television in particular allows people to talk to each other publicly even when physically distant or politically barred from contact.⁴⁴ In the case of Sadat and Begin, for example, Cronkite conducted separate satellite interviews and then created a shared space by broadcasting them on a split screen so that audiences saw the two leaders simultaneously.⁴⁵ In an asynchronous manner during the 1990-91 Gulf War, CNN interviews allowed President George H.W. Bush and Iraq's President Saddam Hussein to hear and respond to each other's statements⁴⁶ in a process quickly nicknamed "teleplomacy."⁴⁷ Journalism's ability to host its own kind of mediation includes an ability to bridge the distance between enemy camps⁴⁸ and bring parties together even when official mediation efforts have failed⁴⁹ or formal contacts have been impossible. The news media space contributes to what former Israeli Foreign Minister Abba Eban characterized as a "new diplomacy."⁵⁰

⁴³ Newspapers are a kind of cultural safe space, offering readers a sense of cognitive control over the random events of the day. During the 1945 newspaper strike in New York City, researcher Bernard Berelson found that readers shared a "ritualistic" attachment to the newspaper as a source of "serenity." MICHAEL SCHUDSON, *THE SOCIOLOGY OF NEWS* 170-71 (Univ. California, San Diego 2003), citing Bernard Berelson, *What Missing the Newspaper Means*, in *COMMUNICATION RESEARCH 1948-49* 35-47 (Paul Lazarfeld and Frank Stanton, eds., Harper and Brothers, 1949).

⁴⁴ Botes, *supra* note 41 at 11 ("When parties are legally banned from meeting together ... or when one or the other refuse to appear in the same room, satellite technology can bring them into the same 'electronic room' or onto the same screen. This allows them to communicate via the moderator, or directly with the moderator, while saving face by not being in the same location.").

⁴⁵ Gilboa, *supra* note 6 at 102.

⁴⁶ Tanya Glaser, article summary of Jannie Botes, *Television and Conflict* 11 CONFLICT RESOL. NOTES No. 2, Sept. 1993, at 26-27, <http://www.crinfo.org/articlesummary/10057>.

⁴⁷ Gilboa, *supra* note 6 at 100 ("During the 1990-91 Gulf conflict, one Washington Post columnist used the term 'teleplomacy' to describe the interviews that television news anchors conducted with Saddam Hussein.").

⁴⁸ WOLFSFELD, *supra* note 3 at 226 ("The ultimate power of the media to influence the course of a conflict is rooted in the fact that antagonists are almost always kept in separate caves.").

⁴⁹ Botes, *supra* note 41 at 4.

⁵⁰ Gilboa, *supra* note 6 at 100.

D. Accumulating Information

Both the mediator and the journalist accumulate information primarily by questioning parties, and here, again, their approaches are similar. An analysis of the 1985 *Nightline* programs on South Africa and the 1988 programs on Israel found that Koppel used such mediation techniques as asking challenging questions, seeking explanations and checking reality.⁵¹ The observation is not surprising, since these are intuitive techniques of journalism as well.⁵² The reporter, like the mediator, is an attentive listener and is especially alert to issues, although the reporter understands the term *issue* in its ordinary sense, as an important topic for debate or discussion,⁵³ rather than as a term of art.⁵⁴

In several ways, however, newsgathering also differs from the information gathering of mediation. One difference is in the neutral's mode of listening. Mediators make use of "active listening," sometimes summarizing and reflecting back their understanding of a party's thoughts and asking for confirmation.⁵⁵ In contrast, a reporter typically hears and notes a party's reply to a question and then simply asks another question.⁵⁶

Another important difference is the lack of privacy granted to a news interview. While the mediator closes the doors and promises a confidential conversation,⁵⁷ the journalist

⁵¹ Botes, *supra* note 41 at 8

⁵² Journalism textbooks tend to present such techniques as variations on open- and closed-ended questions.

Compare STULBERG, *supra* note 19 at 75-80 with MELVIN MENCHER, MELVIN MENCHER'S NEWS REPORTING AND WRITING 299-303 (McGraw-Hill Co. 2006) and FEDLER, *supra* note 2 at 274-77.

⁵³ NEW OXFORD AMERICAN DICTIONARY 901 (Elizabeth J. Jewell & Frank Abate, eds., Oxford Univ. Press 2001)

⁵⁴ STULBERG, *supra* note 19 at 81-85 ("An issue is a matter, practice or action that enhances, frustrates, alters, or in some way adversely affects some person's interests, goals or needs.")

⁵⁵ See Gary Friedman & Jack Himmelstein, *The Loop of Understanding*, in MENKEL-MEADOW ET AL, *supra* note 26 at 335-338.

⁵⁶ SCHUDSON, *supra* note 43 at 75 ("The normal sequence of turns in the news interview is (1) question (2) reply and (3) next question.")

⁵⁷ Stulberg points out that public mediation is possible in some disputes, and he even notes that an audience might have a salutary effect on the process. He notes, however, that his position on this point is controversial. STULBERG, *supra* note 19 at 161-63

inherently invites a large “unseen public”⁵⁸ to listen in. Even when conducted individually, news interview talk is “consequential talk, talk for which the speaker will be held publicly responsible.”⁵⁹ For the reporter, accumulating information may be hindered by this invisibly present audience. If there are facts that parties are willing to share only with each other, the reporter is less likely to learn them than the mediator. However, the audience can also strengthen the reporter’s hand in getting answers to questions. Parties seeking wider support know that the reporter controls their access to the public,⁶⁰ and thus they have an added incentive to cooperate. It was the size and power of their audiences⁶¹ that gave Cronkite and Koppel the leverage to bring high-level disputing parties together to answer difficult questions.

E. Framing Issues

The facilitative mediator is charged with managing a conversation between disputing parties “in a way that does not simply reinforce their differences.”⁶² To do this, the mediator typically reframes points of disagreement in nonjudgmental terms and suggests an agenda for discussion that is designed to optimize the chances of resolving the dispute.⁶³ Such an exercise would be alien to journalism. To the extent that the reporter has an agenda for conducting an interview, it is calculated, not to assist the parties, but to extract information⁶⁴ to share with the public. Furthermore, the reporter rarely rephrases a party’s statements, since the newsroom

⁵⁸ MICHAEL SCHUDSON, *THE POWER OF NEWS* 75 (Harvard Univ. Press 1995).

⁵⁹ *Id.*

⁶⁰ *Id.* (“The reporter’s dependence on the words and views of the interviewee for his or her reputation, or even livelihood, is balanced against the interviewee’s vulnerability to public exposure or need for public recognition controlled by the journalist. Each party exercises leverage potentially damaging to the other.”).

⁶¹ *Id.*

⁶² STULBERG *supra* note 19 at 81.

⁶³ *Id.*

⁶⁴ *See generally* STOVALL, *supra* note 2 and MERITT & MCCOMBS, *supra* note 29.

places a high value on capturing the party's exact words, even if they are combative and especially if they are vivid or particularly apt.⁶⁵

The reporter generally frames issues later, after the interview, in the process of writing or telling the story. Here the contrast to the neutral framing of mediation is stark. An analysis of seven newspapers over a two-month period found that 30 percent of front-page stories used combative narrative frames. That is, they told stories in terms of conflicts, winners and losers or revelations of wrongdoing.⁶⁶ Peace journalism proponents charge that the regular use of conflict-oriented frames can “inflame the political atmosphere,”⁶⁷ robbing popular narratives of nuance and ambivalence.⁶⁸ Furthermore, the existence of combative pre-set frames in the minds of reporters may encourage them to cover the events that most easily fit that mold, under-reporting the news from a community's “mediating institutions,” such as churches and amateur sports leagues, for example, where people make connections and resolve differences.⁶⁹

For the reporter, unlike the mediator, the framing task is usually not deliberate. The journalist makes choices that are often unintentional and unconscious,⁷⁰ relying on what sociologist Michael Schudson describes as nothing more than “little tacit theories.”⁷¹ Daniel Hallin suggests that when thinking about their stories, reporters shift spontaneously among three “spheres,” defined by the topics of news stories. In the “sphere of consensus” are stories about motherhood and apple pie, about which reporters do not feel compelled to present opposing

⁶⁵ *Id.*

⁶⁶ PROJECT FOR EXCELLENCE IN JOURNALISM & PRINCETON SURVEY RESEARCH ASSOCIATES, FRAMING THE NEWS: THE TRIGGERS, FRAMES AND MESSAGES IN NEWSPAPER COVERAGE (August 5, 1999).

⁶⁷ WOLFSFELD, *supra* note 5 at 19.

⁶⁸ JAMES FALLOWS, BREAKING THE NEWS: HOW THE MEDIA UNDERMINE AMERICAN DEMOCRACY (Pantheon Books 1996).

⁶⁹ *Id.* at 246.

⁷⁰ SCHUDSON, *supra* note 43 at 37.

⁷¹ *Id.*

views.⁷² A second sphere, the “sphere of legitimate controversy,” includes such news as election stories and debates. In this sphere, reporters adhere to the norms of neutrality and balance.⁷³ Beyond these, Hallin suggests, is a third sphere, occupied by ideas considered by society and journalists as unworthy of being heard⁷⁴ and therefore undeserving of balanced coverage. An allegation of witchcraft would probably fall into this sphere, for example.⁷⁵ As Schudson observes, “[i]t is as if journalists were unconsciously multilingual, code-switching from neutral interpreters to guardians of social consensus and back again without missing a beat.”⁷⁶

F. Generating Movement

Resolving a conflict requires some movement by one or more parties. The mediator consciously tries to generate this movement. The journalist tries not to. A cardinal principle of journalism is to report news, but not make news. Koppel, the ABC News anchor, insisted that he was not trying to play a mediating role in his *Nightline* conversations.⁷⁷ Cronkite also downplayed his role in bringing Sadat and Begin together, at least initially.⁷⁸ Yet, whether or not they want to, journalists may generate movement as a by-product of their normal interviewing practices. Researchers classifying Koppel’s conversational moves, according to a list of 100 mediation techniques, found that he “stroked” opposing parties, oriented them toward the future, used humor, pointed out shared positions, performed “reality checks,” and warned of

⁷² DANIEL HALLIN, *WE KEEP AMERICA ON TOP OF THE WORLD: TELEVISION JOURNALISM AND THE PUBLIC SPHERE* 53-54 (Routledge 1994).

⁷³ *Id.* at 54

⁷⁴ *Id.*

⁷⁵ In contrast, mediations in New York City handle accusations and denials of witchcraft with some regularity.

⁷⁶ SCHUDSON, *supra* note 43 at 186.

⁷⁷ Botes, *supra* note 41 at 14 (“[I]n spite of Koppel’s protestations to the contrary during these programs, based on this list of his mediatory tactics he appears to be facilitating a negotiation between the parties on his programs.”)

⁷⁸ WALTER CRONKITE, *A REPORTER’S LIFE* 354 (Random House 1996), cited by Gilboa, *supra* note 6 at 105.

the consequences of their negative behavior.⁷⁹ In addition, in his broadcast on South Africa, Koppel used favorable terms to introduce the anti-apartheid leader Bishop Desmond Tutu, thus empowering the out-party.⁸⁰ In his broadcasts on the Middle East, he employed face-saving several times on behalf of the PLO.⁸¹ Cronkite’s satellite exchanges, although much briefer, also followed lines familiar to mediators, as in the following excerpt regarding the prospect of Sadat’s visiting Jerusalem:

<u>News interview</u>	<u>Mediation term</u>
Sadat: I’m just waiting for the proper invitation.	Issue
Cronkite: You must get something directly from Mr. Begin, not through the press?	Rephrasing to clarify
Sadat: Right. Right.	
Cronkite: And how would that be transmitted ... since you do not have diplomatic relations with Israel?”	Reality test/ option development
Sadat: Why not through our mutual friend, the Americans...?	Proposal
Cronkite: If you get that formal invitation, how soon are you prepared to go?	Clarification
Sadat: ... in the earliest time possible.	
Cronkite: ... say within a week?	Clarification
Sadat: You can say that, yes... ⁸²	

Sadat’s historic trip to Jerusalem did take place within a week, and Cronkite eventually acknowledged that his broadcast probably played a role because it “speeded up the process,

⁷⁹ *Id.* at 8.

⁸⁰ *Id.* at 10.

⁸¹ *Id.* at 11.

⁸² *Transcript of the Interviews with Sadat and Begin*, N.Y. TIMES, Nov. 15, 1977, at A2.

brought it into the open, removed a lot of possibly obstructionist middlemen, and made it difficult for principals to renege on their very public agreement.”⁸³

G. Using a Caucus

A facilitative mediator sometimes meets in a confidential session, or caucus, with individual parties in order to elicit confidential information, to provide a safe space for exploring ideas, or to protect a party while the mediator asks difficult questions or points out flaws in the party’s arguments.⁸⁴ For the journalist, separate interviews are normally not private in the same sense. For a reporter, what parallels the mediator’s caucus would be an off-the-record interview, in which a journalist promises confidentiality. Like any news interview strategy, confidentiality aims at eliciting more information. It usually does so by withholding the name of a particularly vulnerable party from publication so as to protect him or her from such harms as retaliation or public embarrassment, which might otherwise be obstacles to the reporter’s gaining information.

In a way, the confidentiality offered by the reporter and the mediator are mirror images of each other. In mediation, the parties are already known, but their information is kept secret by the mediator. In journalism, a party’s information is usually published, but the party’s identity is kept secret. In mediation, an individual conversation is presumed to be confidential unless a party authorizes sharing information.⁸⁵ In journalism, an individual conversation is presumed on the record unless specially marked.⁸⁶ In both settings, confidentiality is seen to serve a purpose worthy of legal protection. The mediator is under a duty not to tell a trial court the statements

⁸³ WALTER CRONKITE, *A REPORTER’S LIFE* 354 (Random House 1996), cited by Gilboa, *supra* note 6 at 105,

⁸⁴ STULBERG, *supra* note 19 at 107-112.

⁸⁵ STULBERG *supra* note 19 at 107-112.

⁸⁶ SCHUDSON, *supra* note 58 at 75.

heard in the mediation. Most states provide some evidentiary privilege allowing a reporter to protect the identity of a source in order to keep a promise of anonymity.⁸⁷

H. Resolving the Dispute

The mediator's ultimate hope – resolving the dispute⁸⁸ – is not shared by the journalist. The reporter's primary aim is to inform,⁸⁹ leaving any next steps to parties and the public.⁹⁰ Yet the contrast between mediator and reporter is not as clear-cut as it might seem initially. A mediation that does not resolve all of the issues is not considered to have failed,⁹¹ and mediations that succeed may have diametrically opposed results. For example they may heal relationships or end them.⁹² For the mediator, the primary function of the process is to reorient parties to each other and bring issues into the open.⁹³ At the same time, the traditional journalist's detachment from the outcome of a news interview is not an absolute standard. In times of civil conflict, reporters have been known to put away their cameras when it appeared that their presence was creating more violence. Likewise, in planning his Israel-PLO program, Koppel later wrote that he worried that he might make matters worse.⁹⁴ Traditionalists in journalism insist that reporters must not risk their objectivity by worrying about the practical results of their stories or by taking

⁸⁷ ROBERT TRAGER, JOSEPH A. RUSSOMANNA & SUSAN DENTE ROSS, *THE LAW OF JOURNALISM AND MASS COMMUNICATION* (McGraw Hill 2007).

⁸⁸ STULBERG, *supra* note 19 at 123.

⁸⁹ Botes, *supra* note 41 at 16 (“[W]hile journalists . . . perform [facilitative] roles in dealing with two sides of a conflict, they perform them relatively unconsciously and invariably without taking any responsibility for bringing the parties closer to any form of resolution.”).

⁹⁰ The motto of the Columbia University Graduate School of Journalism, for example, is simply, “That the people shall know.”

⁹¹ STULBERG, *supra* note 19 at 133.

⁹² Fuller, *supra* note 35.

⁹³ *Id.*

⁹⁴ Koppel worried that his Israel show might do harm. “. . . not only could there be violence, and there could be people killed, maybe, but on top of that we would be the cause of it all.” Botes, *supra* note 41 at 12.

part in designing solutions.⁹⁵ Yet newspapers that have actively sought resolution to community conflicts have been among those to win the Pulitzer Prize for exactly those efforts.⁹⁶

II. OTHER PROCESSES TO EXPLORE

On several points, where journalism differs markedly from facilitative mediation, it has a surprising resemblance to two very dissimilar forms of dispute resolution. These two are transformative mediation and adjudication.

A. Transformative Mediation

Transformative mediation aims to resolve conflicts by focusing on the communication between the parties and helping each to achieve a greater degree of clarity about the self and a greater degree of responsiveness toward the other.⁹⁷ This calls for several strategies that are different from those of the facilitative mediator but are similar to those of the journalist. One is that the transformative mediator avoids neutrally reframing issues, preferring to reflect back to both parties the words and emotions that they have conveyed themselves. For the transformative mediator, to frame an issue is not to rephrase it, but to highlight it, inviting parties to “consider the implications or questions that follow from a statement one of them has made.”⁹⁸ This

⁹⁵ Carol Marin, Chicago television news reporter and anchor, cited in HOWARD GARDNER, MIHALY CZIKSZENTMIHALYI & WILLIAM DAMON, *GOOD WORK: WHEN EXCELLENCE AND ETHICS MEET* 202 (Basic Books 2001) (“Once we become proactive on the solution side, we risk corrupting our own desire to tell the truth if our solutions fail.”).

⁹⁶ Manoff, *supra* note 10 at 3 (“[T]he Akron Beacon Journal’s Race Relations Project ... solicited the participation of community groups around the city ... organized meetings, collected 22,000 citizen pledges to work for racial harmony, and even hired professional facilitators... It is striking to note that the newspaper’s actions in clearly overstepping the profession’s nominal models of journalistic detachment were rewarded with a Pulitzer Prize.”).

⁹⁷ Joseph P. Folger & Baruch Bush, *Transformative Mediation and Third-Party Intervention: Ten Hallmarks of a Transformative Approach to Practice*, 13 *MEDIATION Q.* 263, 264-267 (1996).

⁹⁸ *Id.*

unflinching adherence to the parties' own words is strikingly similar to journalists' attempt to accurately quote sources in stories.

A second similarity is that, even more than the facilitative mediator, the transformative mediator places all responsibility for the outcome of a conflict on the parties. Transformative mediators "consciously reject feelings of responsibility for generating agreements, solving the parties' problem, healing the parties, or bringing about reconciliation between them."⁹⁹ This determined detachment from the outcome also is true to the norms of journalism. What transformative mediators do feel responsible for is setting a context that supports the parties' own efforts to communicate and make decisions.¹⁰⁰

Journalism and transformative mediation are at opposite extremes on some other points. For example, the degree of control that the journalist exercises over an interview is typically high, while a transformative mediator purposely turns the process over to the parties.

B. Adjudication

One important difference between journalists and mediators is in their goals. While mediation aims to assist in resolving conflicts, journalism aims at seeking and communicating accurate information. A pursuit of truth is a goal that journalism shares with adjudication, where the trier of fact determines which of the parties' competing narratives it believes.

Journalism also differs from mediation in its lack of privacy. Although mediation may be possible in public, journalism is public by its very nature. This is another quality that news media share with adjudication. Both journalists and judges take their authority – formally or informally – from the public. The journalist even has some ability to force parties to the table.

⁹⁹ *Id.*

¹⁰⁰ *Id.*

The journalist's version of a subpoena is a phone call to a party saying that an opponent will be quoted in the next day's newspaper or broadcast. In that context, the party often accepts the invitation to be interviewed too. Both courtroom and newsroom know the pitfalls of publicity. For example, while the presence of an audience puts some parties on their best behavior, it causes others to posture, subverting the truth-finding purpose. In both arenas, the priorities of officials – reporters or lawyers – may tend to polarize the debate.

Another striking similarity between journalism and adjudication is in the requirement of the courtroom and the tendency of the newsroom to fit varied human stories into a limited set of predetermined frames. In law, the process is conscious and the frame is a formal cause of action.¹⁰¹ In both, the frame tends to pose a win-lose relationship between parties. In journalism, the framing process is more intuitive and less exact, but it still imposes limits on the way parties can hear each other and the way the public perceives them.

C. More Areas for Investigation

In exploring the peacemaking potential of journalism, still other forms of dispute resolution may bear investigation. In some ways, the journalist is like the neutral in a mini-trial, who orchestrates an abbreviated presentation of a dispute for officials who ultimately negotiate and decide its outcome.¹⁰² In the case of the journalist, the dispute is not private but public and the decision-makers are not company CEOs but members of the public, some of whom may vote or otherwise take an active role on the issue in question. In other ways, the journalist is like an ombudsman, someone who is part of a government or organization but maintains a degree of

¹⁰¹ MENKEL-MEADOW ET AL, *supra* note 26 at 270.

¹⁰² *Id.* at 619-20.

independence and is designated to pursue grievances on behalf of out-parties.¹⁰³ Although reporters are not public officials or corporate executives, they enjoy a real place in the community power structure from which to register grievances on behalf of weaker out-parties.

III. AREAS OF PROMISE AND CAUTION

Proponents of peace journalism advocate an array of changes in news reporting and writing practices. One aims at journalism's underlying goal and recommends that reporters abandon their claim of total disengagement from the consequences of their work. These advocates urge that reporters should aim at least to "do no harm"¹⁰⁴ or should even consider taking action, rather than merely watching, as tragedies unfold.¹⁰⁵ Another set of suggestions aim at the way reporters go about their work. Among them are the following: Reporters should take care to include moderate, even ambivalent, voices in their stories and should ask questions designed to find areas of agreement, not just disagreement; reporters should become more conscious of their framing of stories avoiding a reflexive, combative approach and should consider expanding the range of interpretive frames that they use.¹⁰⁶

In deciding how – and whether – conflict resolution techniques may be put to use in the news media, it may be wise to follow Lon Fuller's example and first examine the moralities of the processes in question. While "the morality of mediation lies in optimum settlement,"¹⁰⁷ the

¹⁰³ Howard Gadlin, *The Ombudsman: What's in a Name?* 16 NEGOT. J. 37-43 (2000).

¹⁰⁴ They should refrain from practices that raise the level of hate, distrust, and violence between communities WOLFSFELD, *supra* note 3 at 8.

¹⁰⁵ "BBC correspondent Martin Bell ... was distressed by the early stages of the ethnic cleansing in 1994-95. In his view the West stood idly by because the media reported the slaughter will all the objectivity of reporting on a football match." Howard, *supra* note 25 at 7.

¹⁰⁶ Their recommendations overlap and reinforce each other. See generally EUROPEAN CENTRE FOR CONFLICT PREVENTION, *supra* note 8; Howard, *supra* note 16; and McGoldrick & Lynch, *supra* note 12 .

¹⁰⁷ Lon Fuller, *Collective Bargaining and the Arbitrator* 1963 WIS L. REV. 3, 23-24, 26.

morality of journalism would seem to lie in public truth-telling, holding a mirror up to society.¹⁰⁸ If this is the case, then journalism fails its own morality when it distorts the mirror by focusing on the most extreme voices, constricting people's stories into a limited set of frames, or making unconscious pre-judgments about what is and is not an area of legitimate debate. To the extent that lessons learned in facilitative mediation can heighten the awareness and expand the tools of reporters, the lessons can promote both peace-making and journalistic integrity

However, to aim consciously at any result – even the noble result of a resolved dispute – may pose a risk to both the truth-telling aim of journalism and its prospects for resolving conflict. Unlike facilitative mediation, journalism is a public process that, at points, has a level of power comparable to that of adjudication, capable even of pro-actively seeking out conflicts and bringing them into its process. The public may be best served when this free-wheeling ability on the one hand is balanced by conscious restraint on the other, as the journalist refrains from advocating specific outcomes and leaves those to the parties and the public. As peace journalism advocates continue their exploration of the news media's potential for conflict resolution, they may find it fruitful to examine the goals and techniques of transformative mediation. Its disengagement from the outcomes of mediation fits the stance of the journalist. Its emphasis on clarity and responsiveness may provide the right set of ultimate goals for an accurate and useful mirror.

¹⁰⁸ The Society of Professional Journalists' Code of Ethics, at www.spj.org/ethics_code.asp, begins with its most extensive section, headed "Seek Truth and Report It." Its first point is that "[j]ournalists should be honest, fair and courageous in gathering, reporting and interpreting information."