
Columns

Beyond ADR: A Systems Approach to Conflict Management

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In the practice of dispute resolution, an evolution — some would say a revolution — is occurring. The field has moved well beyond the settlement of individual disputes to a growing phenomenon called the “integrated conflict management system,” which represents a comprehensive, systems approach to the prevention, management and resolution of conflict. As explained by Lipsky and Seeber (1998: 23), “Conflict management systems. . . (are) apparently an emerging phenomenon in American corporations. . . (I)n many companies with strong ADR policies, ADR isn’t simply a set of techniques added to others the company uses but represents a change in the company’s mindset

about how it needs to manage conflict.”

Until very recently, business firms, government agencies, universities, and other organizations (whether unionized or nonunion) usually approached dispute resolution on a case-by-case basis. In general, organizations introduce resolution methods as stand-alone processes, in three distinct phases: power, rights and interests (see Ury, Brett, and Goldberg [1988: 19]).

In the *power* phase, some organizations simply turn to a local supervisor or the chain of management to make a decision, failing to develop, or even encourage, any other method for resolving disputes. Over time, the *rights* phase to dis-

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pute resolution emerged, through legislation, employer policy, collective agreements, and contracts. In unionized (and many nonunion) workplaces, the rights phase led to such resolution methods as grievance procedures, arbitration, peer review, and quasi-judicial tribunals, among other processes. In recent decades, an increasing number of organizations are providing *interest-based* processes such as mediation, facilitation, or negotiation for the resolution of certain disputes on a case-by-case basis.

The fourth and newest phase is the *integrated conflict management system*, which includes all the options for dispute resolution available in the three other phases, and goes significantly further in its approach to conflict and its management. A comprehensive approach to conflict, it is changing the philosophy (and, in many cases, the terminology) of organizational life.

Several factors of contemporary life have contributed to the emergence of this phenomenon. First, economic and demographic trends are causing many organizations to add employee recruitment and retention to their corporate priorities. One result of this change in priorities is a growing emphasis on a more people-centered and healthy work environment. By introducing interest-based approaches to resolve individual disputes, organizations meet with some success. However, until these processes are supported in a systematic way, they are treating only the *symptoms* and not the *causes* of organizational conflict.

In the search for methods of addressing the *causes* of conflict, some organizations have found a strong solution in the integrated conflict management system, which moves beyond individual case resolution, offers people a choice of options, and inter-connects all available options and functions (Rowe and Bendersky forthcoming). Such systems have enormous potential for organizational cultural transformation, helping to create a culture of “conflict competency.”¹

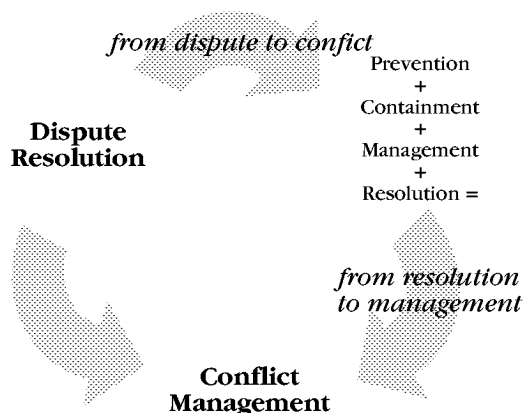
How does conflict competency affect an organization’s culture? One simple (and profound) definition of culture is that it is “how people treat each other.”² And how people treat each other when in conflict is its essence. Thus, shifting an organization’s attitudes and practices around conflict can fundamentally and positively affect the workplace and its culture.

A Shift in Terminology

Careful readers will note that the language I am using here is not “integrated *dispute resolution system*” but rather “integrated *conflict management system*.” Why? In my view, “conflict” is a word that includes disputes but also has a broader connotation, including such things as relationship strains and workplace stresses that have not yet surfaced as a dispute.³ “Management” of conflict includes resolution plus such other initiatives as prevention and containment (see Ury 1999). Thus, the term “conflict management” includes dispute resolution and goes well beyond it.

Figure One
The Changing Vocabulary of Disputing

Terminology Shift



Much more than words are changing, however. As described by Conbere (forthcoming), systems thinking has evolved over the past dozen or so years. At least six different conflict management system models have developed, each building on the next.

The systems approach was first popularized in the 1980s by the foundational thinking of Rowe (1984); Rowe and Baker (1984); Westin and Feliu (1988); McCabe (1988); Ury, Brett and Goldberg (1988); and Ewing (1989). This was followed in the 1990s by the work of (among others) Costantino and Merchant (1996); Slaikeu and Hasson (1998); Rowe (1997); and Lynch (1997). These efforts culminated in the Society for Professionals in Dispute Resolution (SPIDR) "Guidelines for the Design of Integrated Conflict Management Systems" (see Gosline et al. 2000).

SPIDR is now merging with two other organizations to form the new Association for Conflict Resolution, which is now responsible for the promotion of the Guidelines. No less an authority than former U.S. Attorney General Janet Reno (2001) lent support to the conflict management systems approach when she wrote:

Instead, we need to establish a range of options and processes to resolve disputes. Recently, the Society for Professionals in Dispute Resolution adopted guidelines for organizations wishing to design integrated conflict management systems. These guidelines emphasize two important points. First, effective integrated systems provide multiple options for addressing conflict, including some processes that are rights-based and others that are interest-based. Second, the goal of these systems is to empower people by making them more compe-

tent to resolve their own disputes and to offer assistance, rather than decision-making, when direct negotiations are difficult. I think we need to build on this splendid work by committing ourselves to create an integrated conflict management system for society as a whole. . . .

Explaining Change: The “5 Cs”

The design and implementation of an integrated conflict management system is usually undertaken by corporations or organizations to address internal workplace conflict. The system is then applied to issues that arise with external stakeholders (such as suppliers, customers, or clients), although it can certainly be launched first for external conflict.

It takes a visionary leader to get this kind of initiative started — generally a high-ranking person within the organization, such as the CEO, human resources director, head of the legal department, organizational ombudsman or other champion who identifies a need for change and brings the concept forward to senior management and labor leaders.

If any one of five catalysts for change (each of which begins with the letter “c”) is present, the introduction of an integrated conflict management system can become a strong priority. These factors are:

- *Compliance.* Legislation or policy may dictate that the organization must adopt new dispute resolution activities. Among the increasing number of examples of this catalyst for change, in the United States, would be the federal Administrative Dispute

Resolution Act of 1996 and the Executive Order on Civil Justice Reform and the Alternative Dispute Resolution Act of 1998. In Canada, many jurisdictions have passed legislation to require mediation of litigation cases. Federally, in 1999, Parliament caused its second largest department, Revenue Canada, to change its status to that of an Agency, thereby requiring a rewriting of many of its employee recourse processes and policies. As well, the entire recourse system within the Canadian federal government is undergoing an overhaul as part of the mandate of the Task Force on the Modernization of Human Resources within the federal public service.

When compliance is the catalyst, there can sometimes be difficulty in building buy-in for the new approaches, unless it has been co-developed by the stakeholders who will use them. This form of collaborative design is an important ingredient in the integrated conflict management system.

- *Cost.* To date, costs — of grievances, litigation, and settlements — are usually the strongest factor driving an organization to make a change, and have been the causal factor for organizations experimenting with arbitration or mediation for individual cases. As Lipsky, Seeber, and Hall (2001) describe, about 17 percent of American corporations choose a prevention or systems approach in order to control or reduce dispute resolution costs, and these corporations tend to be those

that seek to do so in order to be competitive in their global markets e.g. financial services, insurance, construction).

Most organizations also recognize that conflict can often cause other huge direct and indirect costs, such as temporary or permanent loss of employees to stress leave, to competitors, or to early retirement; reduced productivity; frustration and exhaustion for those spending long hours fighting with peers; even sabotage. Yet, unless the usual case-by-case, ad hoc approach is abandoned for a systems approach, these indirect costs are either never fully addressed or just simply avoided.

- *Crisis.* We've all read of such events or watched them unfold on the evening news: An organization is humiliated by a single horrible crisis relating to harassment, discrimination, incompetence, negligence, or fraud that becomes an embarrassing headline-catcher. Or, an avalanche of a certain type of dispute hits the organization, as has occurred in both the United States and Canada with cases of harassment and discrimination, waste and fraud, or unsafe working conditions. Of course, crisis situations can be investigated and then, one-by-one, be litigated, arbitrated or mediated; but the damage is already done. Employees suffer low morale, trust in management is bruised, share value or citizen confidence has crashed, and someone's career is destroyed. Crisis is thus the clearest wake-up call for a systems approach, as only a systems

approach includes prevention and processes to manage the onslaught and contain the damage.

- *Competition.* Industry-by-industry and profession-by-profession, business firms compete with each other to attract and retain the best employees. Integrated conflict management systems are understood by some to be an essential feature in securing a healthy work environment.
- *Culture.* In my opinion, this is the most significant and valuable, yet least understood, causal factor. Many organizations identify a need for cultural transformation, yet fail to understand that the introduction of an integrated conflict management system could be the missing link between strategy and success, and between alignment of their internal staff approaches with their mission, values, corporate objectives and/or core service delivery. Consider, for example, such cases as: a university supporting conflict resolution education but, at the same time, failing to "walk the talk" by addressing internal conflicts in a way that satisfies the interests of students, faculty, and staff members; or a correctional service that espouses restorative justice but treats its own officers in a retributive manner when dealing with employee conflict; or a military force that supports interest-based efforts in international peacekeeping but deals with internal disputes in a way that leaves people feeling unimportant, distracted, or marginalized.

In short, many organizations modernize the delivery of their core services, while falling far behind in making changes to their internal staff practices with respect to conflict management. Only when such organizations see the links between conflict management, cultural transformation, and service delivery, are they able to start to treat the cause as well as the symptom.

One of the first organizations in North America to come to this realization and act on it by implementing an integrated approach to conflict management was the Royal Canadian Mounted Police (RCMP). The circumstances leading up to the system's design were eloquently described by the RCMP membership's elected president, Staff Sergeant Reg Trowell⁴:

While the Force has always been adaptive to new policing techniques and concepts in providing a service to the public, we have lagged behind internally when dealing with our employees. Cumbersome, sometimes dysfunctional discipline and grievance systems contributed to small problems becoming large and large problems becoming quagmires, draining fiscal and human resources without satisfactory resolution for management or employee. . .

. . . (W)ith no fear of contradiction, (this) played a pivotal part in changing how we do business day-to-day and in shaping our RCMP culture. . . While (it) is but a part of what is bringing change to our organization, it has proven a critical part. . . With many initiatives underway focused on improving how

we do our external "policing" business, one cannot minimize the impact our ADR system has had on how we do our internal "people" business.

Features and Safeguards of an Integrated System

A key difference between integrated conflict management systems and a case-by-case approach is that integrated systems foster an environment in which managers are expected to prevent, manage, contain and resolve all conflict at the earliest time and lowest level possible. To support this goal, integrated systems give managers the skills to do so and create performance incentives that make managers accountable for doing so. The same holds true for union leadership, especially when (as should be the case) unions have shared in the development of the system.

Integrated systems are further distinguished from earlier approaches by their five different features. As described in the recently approved "Guidelines for the Design of Integrated Conflict Management Systems" (see Gosline et al. 2000), healthy systems are:

1. *All-encompassing.* They are broad in scope, providing solutions for all types of problems including those that do not have a "home" in the formal adjudication system. They are also designed to be used by all persons, including those who may not have access to or may not choose to go through the formal adjudication system, such as persons whose cultural values prohibit raising some conflicts, senior managers,

and “bystanders” (the persons close to but not involved in the conflict). A small sample of the types of cases people may want the system to address includes: interpersonal issues, harassment, discrimination, performance reviews, expense claims, staffing processes, work assignments, transfers, promotions, audit and safety, whistleblowing, even discipline cases. Even when the substance of the conflict cannot be resolved using an interest-based option, the process of dealing with the conflict can often be discussed and agreed upon using an interest-based approach.

2. Conflict-competent culture. By connecting options with each other and giving people a choice, healthy systems create an atmosphere and culture where all conflict may be safely raised and where persons will feel confident that their concerns will be heard, respected, and acted upon, with support provided. The “default reaction” changes from one of shrugging off or escalating conflict, to accepting it positively and encouraging early, low-level solutions.

3. Multiple access points. Employees who work in relevant roles are knowledgeable and can be approached for help into the system.

4. Options and choice. A strong rights-based adjudicative process is supported by interest-based options. These interest-based options include problem solving processes such as conflict coaching for first party direct negotiation (helping people help themselves), disputants using the interest-based approach either on

their own or with the help of a mediator, plus a wide spectrum of other options aimed at conflict prevention and conflict management. Persons in conflict can in most cases choose amongst these options. Organizations have become very diligent in adopting new processes, especially in the area of conflict prevention and management. Examples of some of these processes are improving communications, establishing open-door policies, setting up joint union-management consultations, listening, referring, organization-wide skills training, and generic options.

5. Support structures. The organization supports the shift in how conflict is viewed and dealt with, by providing:

- sincere and visible championship by leadership;
- critical mass training, for everyone in a leadership role, both management and labor, plus all other persons who play a role in the conflict chain.
- comprehensive education and awareness programs;
- institutionalized incentives that will attract and encourage managers to become competent in conflict management — for example, including rewarding good practice and instituting conflict management as a core competency in performance measurements⁵;
- independent confidential neutrals (both internal and external) for interest-based solutions such as listening, coaching, referring and problem solving;

- organizational alignment initiatives that integrate the conflict management initiatives with the organization's mission, vision and values statements, with its business plan, with its written policies and core services;
- appropriate resources;
- a central coordinating function and oversight group that report at high levels; and
- feedback, monitoring, and evaluation mechanisms.

A healthy system will also provide a variety of safeguards, including:

- voluntariness;
- privacy and confidentiality;
- neutrals (internal and external): impartial, qualified, fairly selected, and reflecting diversity;
- respect for collective bargaining agreements and other rights;
- respect for diversity;
- protection from all possible forms of reprisal;
- access to information; and
- accompaniment or representation for parties who may need it.

Some Closing Thoughts

The features and safeguards and the design, implementation, and institutionalization of an integrated conflict management system are discussed at much more length in the SPIDR "Guidelines" (see Gosline et al. 2000), which outline a five-phase, ten-component model that should be useful to professional designers. My purpose here was to provide an overview of the concept itself, and

direct interested readers elsewhere for more details on the design process.

It is becoming well accepted that the introduction of interest-based options can prevent many conflicts, and can significantly shorten the time between a request for resolution and the resolution itself. As Ury, Brett, and Goldberg (1989) explained, and as ongoing experience of such corporations as Brown & Root indicate (Zinsser 1996), the interest-based approach can also dramatically reduce the costs of a conflict, some of which are financial while others accumulate in other ways, such as lost opportunity, frustration and frayed nerves, loss of productivity, and consumed resources.

When organizations go beyond interest-based negotiation, and institutionalize a systems approach they can enjoy even further gains in time, money, improved relationships, and satisfaction with process and outcomes. As the Royal Canadian Mounted Police's system took hold and became a new philosophy and daily practice, the Commissioner of the RCMP wrote that the new system had "...helped to build strong relationships, improve morale, communication, productivity, increase confidence in management and provide for savings both in measurable dollars and in emotional energies. . ." and "...contributed to influencing significant organizational change"⁶

Perhaps more poignant, however, were these concluding words from the previously mentioned RCMP members' president, Staff Sergeant Trowell: "It is becoming safe to count smiles in the RCMP"

NOTES

1. Building on Rob Robinson's (1995) essay, "The conflict competent organization," the concept of "conflict competency" as a core competency for performance measurement is now being used. See Lynch (1998a) and (1998b).
2. I first heard both this phrase, and the term "integrated conflict management system" from Dr. Mary Rowe, ombudsman at the Massachusetts Institute of Technology.
3. Examples of conflicts that are not (yet) disputes would include: an employee who feels that the supervisor is showing bias toward another but who says nothing; or an employee who shares a work station with another and is highly irritated by noise or messiness but says nothing.
4. Excerpt from a letter by RCMP Staff Sergeant Reg Trowell to the author, 17 October 1999; the author was the designer of the RCMP system, and chaired the ADR project of the RCMP from 1995 through 1997.
5. In 1999, for instance, the Canada Customs and Revenue Agency introduced conflict management as a core competency. All CCRA managers have a contractual obligation to achieve a certain proficiency level in conflict management and must meet certain levels of conflict management when competing for jobs.
6. Excerpts from letters by former RCMP Commissioner J.P.R. Murray, dated 9 April 1998 and 10 October 1997, to the Canadian Department of National Defence and to the author, respectively.

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