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MEDIATION AND OTHER METHODS TO FOSTER DEMOCRATIC DIALOGUE

Central European University, Budapest 2006

Benjamin Cardozo School of Law and Hamline University School of Law

Professors Kinga Göncz, Lela Love, Dana Potockova, and Joseph Stulberg

COURSE TEXT (all chapter and page references are to this text):

DISPUTE RESOLUTION: BEYOND THE ADVERSARIAL MODEL, Carrie Menkel-Meadow, Lela P. Love, Andrea Schneider, and Jean Sternlight (Aspen Publishers 2005)

ADDITIONAL MATERIAL (supplied in reader or in CD of course text):

- **Uniform Mediation Act and Model Standards of Conduct for Mediators**
- *Applying Collaborative Processes in Former Communist Countries*, Janos Wagner and Raymond Shonholz, IAP2 (First Quarter 2000)
- *Ethnic Minorities in Hungary: Democracy and Conflict Resolution*, Janos Wagner and Sandor Gesko, 552 ANNALS OF THE AM. ACADEMY OF POL. AND SOC. SCI. 28 (July 1997)
- *Practice Guidelines for Co-Mediation*, Lela Love and Joseph Stulberg, 13 MEDIATION QUARTERLY 179 (Spring 1996)

BREAKS WILL BE SCHEDULED DURING EACH CLASS PERIOD.

July 3, 2006, Monday

READING: CHAPTERS 1, 2 AND 3 (TO BE DONE BEFORE THE COURSE BEGINS)

9:00-12:15 **Introduction and Course Overview**
Principles of Dispute Settlement

Lecture and general discussion examining assumptions about dispute settlement, analyzing various dispute settlement methodologies, and exploring the role of mediation within that context.

The Voluntary Resolution of Disputes

Group exercise designed to illuminate the principles and dynamics underlying negotiation. The nature of the outcome, the importance of structuring the process, the role of information, preferences and priorities, the rationale of establishing trade-offs, and the facilitators and inhibitors of consensus-building will be stressed in the analysis.

12:15-1:30 LUNCH

1:30-2:10 **Mediation and the Rule of Law in Central and Eastern Europe**
Professor Csilla Kollonay Lehoczký

2:15-3:45 (Group A) 2:15-3:15 Library Tour A; 3:15-3:45 Computer Lab Tour

2:15-2:45 (Group B) 2:15-2:45 Computer Lab Tour; 3:15-4:15 Library Tour

7:00 Party at Kerepesi Dorm

Assignment: Cross-cultural interviews.

Working in groups of 4 or more, with students from as many different countries as possible, students will discuss and determine the most important similarities and differences between the national negotiating styles and other ways of resolving conflicts of the countries and cultures represented in the group. Students might explore whether other cultures are different in terms of: tendencies towards avoidance, competition and collaboration; formality and informality; punctuality, eye contact, and spatial distances between people in conversations and meetings; the role of gender, religion and age; preferences for problem-solving versus third party decisions. Each student should write a short (maximum of 500 words/approximately 2 typewritten pages, double-spaced and using standard fonts and margins) summary describing lessons learned from this conversation. The conclusion should note how differences discussed might affect the design of a mediation program in specific countries. The written assignment is due in class on Friday, July 7, 2006.

July 4, 2006, Tuesday

READING: CHAPTER 5; *APPLYING COLLABORATIVE PROCESSES IN FORMER COMMUNIST COUNTRIES*, JANOS WAGNER AND RAYMOND SHONHOLZ; *ETHNIC MINORITIES IN HUNGARY: DEMOCRACY AND CONFLICT RESOLUTION*, JANOS WAGNER AND SANDOR GESKO.

9:00-11:35 **The Mediator at Work**

A demonstration of how a mediator works to resolve a dispute.

Overview of Mediation

An examination of the various functions the mediator fulfills and the types of traits/interpersonal skills required of the persons discharging these functions.

Beginning the Mediation Conference

An examination of the impact of different seating arrangements. Participants will examine the components of an opening statement. Interpersonal skills with regard to eye contact, language use, and creating a structured but comfortable environment will be the focus of the analysis that follows.

11:35-1:00 LUNCH

1:00-2:20 **Collaborative Processes in Eastern and Central Eastern European Countries**

Janos Wagner

July 5, 2006, Wednesday

READING: CHAPTERS 6, PPS. 325-345

9:00-1:10 **Accumulating Information and Listening Constructively**

Demonstration and analysis focusing on fact-gathering techniques, note-taking skills, and questioning skills. Interactive exercises will illuminate the task of translating hostile and adversarial communication into building blocks of collaborative dialogue.

Framing Interests and Issues to Construct the Agenda

Lecture and discussion examining the mediator's role in, and responsibility for, identifying, framing and ordering the issues in dispute. Exercises will follow.

2:30 TOUR OF PARLIAMENT

July 6, 2006, Thursday

READING: CHAPTER 12; PLEASE REVIEW THE GUIDE FOR “*FOSTERING DIALOGUES ACROSS DIVIDES*” AT [HTTP://WWW.PUBLICCONVERSATIONS.ORG/JAMSGUIDE.PDF](http://www.publicconversations.org/JAMSGUIDE.PDF)

9:00-1:10 **Facilitation Skills and Techniques to Foster Constructive Dialogue**
An examination of the relationship between facilitation and mediation and of the tasks and tools used by facilitators. Practice will follow.
Dispute Resolution in Eastern Europe
Professor Dana Potockova
Working Lunch/Building a Career in Dispute Resolution (optional)
Informal discussion and advice regarding study and business-building opportunities in the field of conflict resolution.

July 7, 2006, Friday

READING: CHAPTER 4, PPS. 236-256, CHAPTER 6 PPS. 382-385, CHAPTER 15, PPS. 854-864

9:00-1:10 **Dealing Effectively with Diversity**
Discussion, analysis and exercises focusing on interpersonal and communication skills critical to facilitating dialogue in contexts in which issues of personal, cultural, gender and ethnic diversity are pervasive.
An Exploration of Justice and Dispute Resolution Processes: Qiu Ju
(a movie) (approximately 100 min.)

Assignment:

Officer Li in *Qiu Ju* does several things that might be considered poor performance according to the mediator training and reading you have had in this course. Describe three moves Officer Li makes that have a negative impact on moving the dispute towards resolution; and 2) Think back to the scene where the village chief Wang Shantang fulfills his obligation to make a monetary payment to Qiu Ju by throwing the money at her feet. If you were a mediator assisting these two parties and you witnessed this exchange, how would you respond? The written assignment is due on the last day of classes Friday, July 11. (maximum of 500 words/approximately 2 typewritten pages, double-spaced and using standard fonts and margins).

July 8, 2006, Saturday

NO CLASSES

July 9, 2006, Sunday

NO CLASSES

10:00-4:00 BOAT TRIP TO SZENTENDRE (optional)

July 10, 2006, Monday

READING: CHAPTER 6, PPS. 345-358

9:00-1:10

Mediator Strategies for Generating Settlement

Lecture, discussion, and exercises examining the rationale of various settlement strategies that a mediator can use to move the parties towards agreement. Analysis will highlight persuasive techniques for moving parties from impasse to settlement.

Meeting Separately with the Parties

Examination of the purposes and strategies of meeting in caucus sessions with the parties. Participants will assume either the mediator's or a party's role and conduct a caucus. Analysis will follow.

July 11, 2006, Tuesday

READING: CHAPTER 6, PPS. 358-361

9:00-1:10 **Bringing Closure to the Session**

Discussion and exercises regarding the procedure for and components of the construction of a mediation agreement. Strategies for effectively closing a session will be explored and practiced.

Writing an Effective Agreement

Discussion and exercises regarding what should or should not be committed to the written agreement. Particular attention will be focused on format, language, "traps" to avoid, and other principles of good drafting.

July 12, 2006, Wednesday

READING: CHAPTER 7, PPS. 420-447 AND APPENDICES ON CD-ROM A (UMA) AND B (MODEL STANDARDS); PRACTICE GUIDELINES FOR CO-MEDIATION: MAKING CERTAIN THAT "TWO HEADS ARE BETTER THAN ONE"

9:00-1:10 **Ethics and Confidentiality in Mediation**

Discussion and exercises focusing attention on ethical dilemmas faced by mediators, particularly challenges to a mediator's impartiality, and the potential for abuse of discretion and power.

Co-Mediation Orientation

Discussion and analysis of strengths and weaknesses of a co-mediation approach and the principles guiding the effective execution of team mediation. Practice will follow.

2:30 **TOUR OF COURTS**

July 13, 2006, Thursday

READING: CHAPTER 12

9:00-1:10 **Considerations and Strategies in Dealing with Complex Cases**

Professors will "accompany" participants through a conflict analysis to determine the propriety and nature of a mediation intervention in a multi-party, multi-ethnic community conflict. Elements of the analysis will include: party identification; ripeness for intervention; mediator qualifications relevant for effective service; and pre-dispute entry issues and responsibilities. In small groups, participants will analyze a case study to develop performance skills for conducting a multiparty mediation. Elements of the analysis will include: structuring the sessions, capitalizing on role of advocates and spokespersons, planning considerations when cultural diversity is present, and using translators effectively.

July 14, 2006, Friday

READING: CHAPTER 15

9:00-1:10 **Mediation Simulations**

Participants will conduct a complete mediation conference, beginning with the opening statement and concluding with the written agreement. Both participants and professors

will provide feedback to the mediator. Analysis will follow completion of each simulation.

Reflections and Closure

2:30-4:30 Final Paper

Students will write an in-class, open-book analysis of their final mediation simulation in which they served as the mediator and respond to another question(s).

Preparation: Review mediator training material and complete all course reading.

Non-discrimination policy statement

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