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IS PROCEDURAL JUSTICE ENOUGH? AFFECT, ATTRIBUTION, AND CONFLICT IN ALTERNATIVE DISPUTE RESOLUTION

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ABSTRACT

Since its inception in the 1970s, procedural justice has taken center stage in research on the outcomes of alternative dispute resolution. Such perceptions of procedural fairness, while important, are fairly transient whereas relationships between disputants endure. In the following chapter I argue that more research should explore the relational outcomes of dispute resolution, highlighting relevant insight from social exchange and organizational behavior on affect, attribution, and conflict. In discussing how each can add to the study of alternative dispute resolution, a paradox emerges – arbitration may be better for ongoing relationships than mediation, although the latter is considered more procedurally just.

Trends in corporations, communities, and couples suggest that, in the United States especially, alternatives to traditional litigation are growing in popularity and are often quite successful at settling disputes (Burgess & Burgess, 1997; Morrill, 2006). The broad term for these innovative

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resolution strategies and processes is alternative dispute resolution, or ADR. Although such alternatives to court-based adjudication date back hundreds of years, a relatively recent movement has brought these types of conflict resolution into new realms, including the family, the workplace, and government agencies.

Increasing interest in the practice of ADR has subsequently amplified attention in research as well, especially concerns over the procedural fairness of various conflict resolution processes (e.g. Tyler, 2002). While perceptions of procedural justice (Leventhal, Karuza, & Fry, 1980; Lind & Tyler, 1988; Thibaut & Walker, 1975, 1978) – the perceived fairness of the procedures – are important, given that most conflict resolution occurs between individuals with ongoing relationships (Brockner, 2002), it is time to turn our attention more pointedly to the disputants (McEwen, 1999; Pillutia & Murnighan, 2003; Sacks, Reichart, & Proffitt, 1999).¹

To date it has been largely assumed that mediation is better for continuing relationships than processes with higher levels of third party intervention (e.g. arbitration) because perceptions of fairness of the process should lead to a variety of positive outcomes, including preserving the relationship between disputants (Tyler, Boeckmann, Smith, & Huo, 1997; Tyler, DeGoey, & Smith, 1996; Tyler & Lind, 1992). In the following chapter I reveal a paradox of arbitration. Drawing on theories in both social exchange and organizational behavior, I provide a rationale for why increased levels of third party intervention in arbitration might actually be better for ongoing relationships than the procedural fairness of mediation. In doing so I argue that research should move beyond the almost exclusive focus on procedural justice when studying alternative dispute resolution and instead center on the “relational outcomes” of these conflict resolution processes. Disputants’ perceptions of one another (fairness, general positive regard) and their relationship have lasting effects, including implications for the tone of future interactions, long after the processes are over.

BACKGROUND

Alternative Dispute Resolution

The term alternative dispute resolution includes any resolution strategy that serves as an alternative to litigation. In practice, negotiation – where two parties negotiate the terms of a settlement themselves – is the most prevalent

type of alternative dispute resolution (e.g. Bazerman, Curhan, Moore, & Valley, 2000; Jacob, 1992). However, I focus my attention here on the two processes that involve a third party and that are most common in research on conflict resolution – mediation and arbitration.

Although mediation takes many forms, it represents a situation where an intermediary is involved in the resolution process by relaying requests, offers, and information between parties so that the disputants are not required to interact one-on-one (Rebach, 2001). Mediators’ roles vary immensely – some counsel, others address points of compromise, and still others just act as the go-between and keep conflicting parties from having to deal with one another directly. The key attribute of mediation is that in this type of conflict resolution, the disputing parties ultimately decide the outcome themselves (Wall, Stark, & Standifer, 2001). It is also important to note that mediation is often non-binding, meaning that the parties can choose whether or not to comply with the final agreement.

Arbitration, however, is generally binding and parties are obligated to fulfill their end of agreements. Like mediation, arbitration comes in many forms. However, in most arbitration processes the two parties state their cases and, after considering the range of the evidence, the arbitrator makes a ruling. This is the key attribute of arbitration: it is the arbitrator, not the conflicting parties, who ultimately decides the outcome. A new form of arbitration, “final-offer,” emerged recently in response to the often unreasonable demands of disputants in arbitration. Unlike in traditional arbitration, arbitrators in final-offer arbitration are restricted to selecting one of the two parties’ proposed terms of settlement. This arguably makes disputants’ proposals more reasonable to enhance their attractiveness to the arbitrator (Chelius & Dworkin, 1980; Martburger, 1994). This, in turn, helps to limit the differences between the proposed offers and to lessen the competitive nature of arbitration.

The key differences between mediation and arbitration, regardless of the specific type in question, are the processes involved in reaching an agreement and who ultimately decides on that outcome. In mediation, the two disputants, with the help of a mediator, work with one another to come to an agreement and the disputants have the final say on the outcome. Because the two disputants are so involved in the process and the outcome, the third party’s role is relatively minor. This represents a low level of intervention. In arbitration, however, each disputant interacts with the arbitrator, not one another, during the process and the arbitrator determines the final decision, not the disputants. In other words, there are high levels of third party intervention in arbitration.

As more courts, organizations, and individuals turn to these alternatives, it is imperative that research keep pace and ask new questions about the benefits and drawbacks of these processes. Specifically, I suggest we should weigh the potential benefits of procedural justice that come with low levels of third party intervention against the potential drawbacks of increased task interdependence.

Procedural Justice

Procedural justice, in instrumental terms, is the amount of perceived control a procedure affords a disputant or the efficacy one feels in shaping the process and determining the outcome (Thibaut & Walker, 1975, 1978). The more control a disputant has, the more just the procedure. In conflict resolution, this type of control is a zero-sum game – the more process and decision control a third party wields, the less disputants have, and vice versa. As a result, procedural justice ratings in types of conflict resolution are negatively related to third party intervention (Karambaya & Brett, 1989), and mediation is considered fairer than arbitration, which, in turn, is fairer than adjudication.

Other important components of procedural justice emerged after Thibaut and Walker's (1975, 1978) innovative research program. Leventhal et al. (1980) outlined criteria for fair procedures including: suppression of bias, consistency, representation of all parties' interests, accuracy of information, ethicality, and correctability. Greenberg (Greenberg & Folger, 1983) highlighted the importance of voice for disputants' perceptions of procedural justice. Finally, Lind and Tyler (1988, 1992) introduced the group-value model and the relational model. The group-value model argues that procedures are fair if they promote within-group relationships and provide participants with information about their own place in the group, while the relational model (1992) highlights standing, neutrality, and trust as important antecedents for perceptions of procedural justice. Research supports each of these conceptualizations (see Tyler, 1988, 2002 for examples), and these theories serve as an important rationale for promoting mediation over heavier-handed approaches like arbitration and adjudication (e.g. Applebey, 2002; Porter & Taplin, 1987; Tyler, 2002).²

Research indicates that there are a number of benefits of procedural fairness. Perceptions of procedural justice enhance perceptions that outcomes are also fair, create more positive attitudes toward authorities, and produce a variety of positive behavioral reactions (Tyler et al., 1996,

1997; Tyler & Lind, 1992). In other words, this research suggests that if individuals think the *process* – the way that the agreement was reached – is fair, then they will likely think of the final decision as fair and the third party (if there's one present) as fair as well. Further, research suggests that judgments about procedural fairness are similar across gender (Lind, Huo, & Tyler, 1994), cultural groups (Lind, Tyler, & Huo, 1997), and countries (Cohn, White, & Sanders, 2000). However, while many have assumed, few have tested, whether the procedural justice offered by mediation positively impacts the relationship between disputants.

Addressing Assumptions about Mediation

According to MacDougall (1984), there are four criteria for assessing conflict resolution processes: their effectiveness in ending the dispute, the cost of the process, the justice of the process and outcome, and the promotion of social goals. While there is substantial – although often contradictory – research on the first three criteria in mediation, the last one has been largely ignored by scholars and practitioners. The assumption that mediation promotes social goals in the sense of enhancing the future relationship of disputing parties is just that – a widely accepted, and largely unchallenged, assumption (Ogus, Jones-Lee, Cole, & McCarthy, 1990; Walker, 2002).

For instance, while Applebey (2002) alludes to the importance of the ongoing relationships of disputants in a chapter on alternative dispute resolution and justice, he *assumes* that mediation is the preferred method of conflict resolution for individuals with continuing contact. Without citing any research he asserts that when a relationship is to continue, a solution brought about, or agreed upon, by both parties is *thought to be* more acceptable than one imposed by a court of law (Applebey, 2002). He supports this statement with the “*perception* among many that litigation [exacerbates] the hostility between the parties to divorce and that this [has] a particularly harmful effect on the children involved” (Applebey, 2002, p. 36, italics added). However, there is research that suggests that mediation does not improve the post-dispute climate between parties. Further, this is true in a range of types of disputes, including community disputes, divorces, and international conflicts (Kressel & Pruitt, 1989; Pearson & Thoennes, 1989; Toews & McKenry, 2001; Walker, 2002; Wall & Lynn, 1993).

In a publicly funded study of post-divorce outcomes in the United Kingdom, Walker found that mediation “did not necessarily resolve the

dispute and as one issue was settled, others seemed to emerge. At the end of [the] study, many couples were still in disagreement about a range of issues" (2002, p. 38). Mediation is also not as successful in improving the communication between conflicting parents or increasing the well-being of disputants as some might assume (Burgess & Burgess, 1997). Research in the United States by Toews and McKenry (2001) finds similar results. Involvement in divorce mediation versus traditional court proceedings was actually a predictor for greater post-divorce conflict among parents (Toews & McKenry, 2001). Because of these pitfalls and others, Block (1991) recommends arbitration as an alternative to divorce mediation.

To reconcile the assumptions about mediation and the above research, those concerned with justice and conflict resolution must follow Block (1991) and others (e.g. MacCoun, 2005; Pillutia & Murnighan, 2003; Sacks et al., 1999) and consider the implications mediation might have beyond perceptions of procedural fairness. Theories in social psychology and organizational behavior that have been often overlooked in research on conflict resolution and procedural justice offer considerable insight in this important line of inquiry.

INTEGRATING "NEW" THEORETICAL APPROACHES

Theories of affect (Lawler, 2001), attribution (Heider, 1958; Jones & Davis, 1965; Kelley, 1972), and conflict (Hegrvetd & Killian, 1999; Molm, Collett, & Schaefer, 2006; Thompson & Loewenstein, 1992), while hardly new in social psychology, are remarkably absent in research on mediation and alternative dispute resolution. In this section I formulate a theoretical model (Fig. 1) that describes the mediating effects of task interdependence, affect, attributions, and conflict, in the relationship between level of third party intervention and relationships outcomes.^{3 4} I then discuss avenues for further research.

Level of Intervention and Task Interdependence

Task interdependence, or jointness of task, stems from structural interdependencies (Lawler, 2001; Lawler & Thye, 1999). Any mediation process is, by definition, high on task interdependence as mediation implies mutual consensus (Porter & Taplin, 1987). In mediation, the two parties

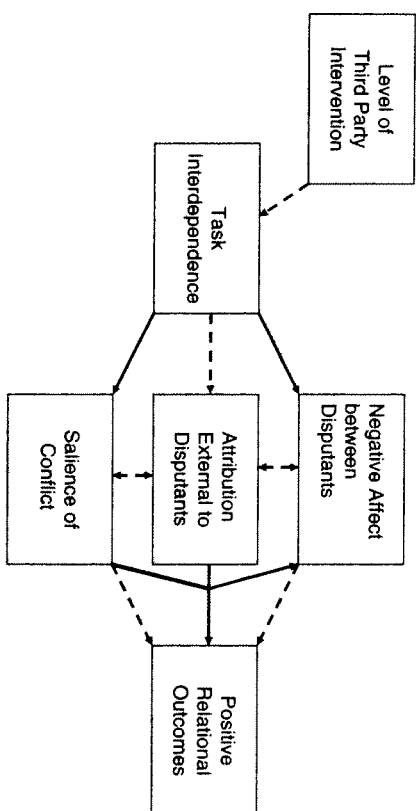


Fig. 1. Third Party Intervention, Task Interdependence, Cognitive and Affective Processes, and Relational Outcomes. Note: Solid Lines Represent Positive Relationships, Dashed Lines Negative Ones.

work together, with third party intervention of varying degrees, to reach a decision. The dialogue of offers and counter-offers can continue back and forth for quite some time. The decision is ultimately made by the disputing parties and mutually agreed upon before it is finalized. The mediator has no control over the settlement or enforcing it. With the non-binding nature of most mediation, it is up to the two disputants to uphold their commitments to any agreement.

Arbitration, however, entails very little task interdependence. The two parties make a request to the arbitrator – a proposed dispute settlement – and it is up to the arbitrator to determine the final outcome. Not only is interdependence lessened, but the direction of interaction shifts as well. The parties are not relying on one another to come to an agreement. They interact with the arbitrator before, during, and after the settlement decision; they do not interact with one another. Arbitration is a one-shot deal, without the back and forth of negotiations in mediation, and decisions are binding.

In other words, as illustrated in Fig. 1, level of third party intervention is negatively related to the degree of task interdependence. It is this task interdependence that is most important for the level of affect, the type and target of attributions, and the salience of conflict in a dispute resolution processes and these, in turn, affect relational outcomes.

The Role of Affect

Social psychologists have become increasingly interested in both affective and cognitive responses to exchange. Affective responses in this research are typically general evaluations of exchange partners or the group (Lawler & Yoon, 1993, 1996, 1998; Lawler, Yoon, & Thye, 2000; Molm, Collett, & Schaefer, 2007), while common cognitive concerns are attributions of blame and perceptions of distributive, procedural, and interactional justice (Hegvedt & Kilian, 1999; Molm et al., 2006; Molm, Quist, & Wisley, 1994; Molm, Takahashi, & Peterson, 2000, 2003).⁵ Most of this research is in the social exchange tradition (Blau, 1964; Emerson, 1972; Homans, 1961), which examines how individuals (e.g. exchange partners, disputants) obtain and contribute benefits in social interaction (Molm & Cook, 1995). While early research in this tradition focused on power and inequality in exchange relations and networks (Molm & Cook, 1995, p. 209), recent attention has shifted to other outcomes of exchange, including perceptions of justice, conflict, affect, and attributions (Hegvedt & Kilian, 1999; Lawler & Yoon, 1993, 1996, 1998; Lawler et al., 2000; Molm et al., 1994; Molm et al., 2000; Molm et al., 2003; Molm et al., 2006; Schaefer, Molm, & Collett, 2004; Takahashi, 2000).

Corresponding with this growth in research on exchange outcomes, Lawler (2001) formalizes an *affect theory of social exchange*. The theory offers six theoretical propositions, but essentially argues (1) that exchange outcomes, whether rewards or punishments, have emotional effects, and (2) the degree of jointness of task or interdependence that exchange partners share influences the salience of the relation as the target of these emotions or cognitions (Lawler, 2001, p. 322). For example, Lawler's own findings (e.g. Lawler et al., 2000; Lawler & Yoon, 1993, 1996, 1998) suggest that *positive* outcomes (specifically reaching agreements) produce *positive* emotions, which are then attributed to the group to the degree that there was task interdependence. The more people work together to exchange successfully, the more they attribute the positive emotions generated by completed exchanges to the group and their social relations. These attributions, in turn, enhance commitment to the group.

Although Lawler has focused on positive emotion (e.g. Lawler et al., 2000; Lawler & Yoon, 1993, 1996, 1998), his theory (2001) argues that a negative outcome – like failing to make an agreement, accepting an unfair agreement, or receiving less than one expects or feels they deserve – should produce negative emotion (anger toward the other or shame toward the self). In addition, the greater the jointness of task or shared responsibility in

a disappointing outcome, the more likely the resulting negative emotion is attributed to the relation or social unit, or directly at the other person (Lawler, 2001). In other words, rather than enhancing commitment, such attributions could exacerbate conflict between disputants.

Unfortunately, in alternative dispute resolution, such negative emotions are common (Tyler, 2002). The main cause of this is the conflict of interests, or the non-correspondent nature of the dispute (Thibaut & Walker, 1975, 1978), where the benefit of one comes at the expense of another. Further, most individuals engaged in alternative dispute resolution do not fare as well as they hoped and perceive the outcome as unfair (Melli, 1991; Tyler, 2002).⁶ Therefore, under conditions of high conflict of interest – where negative emotions are likely, and the other party or the relation are assumed to be the source of this affect – increased task interdependence should be positively related to negative affect between disputants. Fig. 1 illustrates this relationship.

Tyler (2002) uses divorce as an example when he asserts that in many dispute settlements, people are dissatisfied with the outcome:

In divorce cases, for example, both parties often begin without any real awareness of the extent to which their life-style will be affected by the division of marital assets. Both parties imagine themselves unrealistically well-off after the settlement. In such a situation both are likely to end up receiving less than they expect and feel that they deserve in the settlement. (p. 20)

Although Tyler uses this example to support the importance of procedural justice in such disputes, it might be interpreted differently. Imagine the different perceptions an individual would have leaving a mediator's office, where the decision was made, in part, by the person they are divorcing. Compare that to the experiences and perceptions of someone leaving a courtroom where the judge or arbitrator is the one who made the final, and disappointing, decision. In either case, the affect would be negative, but the target and level of the harmful emotion would vary with interdependence. Mediation's higher levels of interdependence would create higher levels of negative affect as well, and the negative affect would be directed toward the other disputant.

In an extension of social exchange to situations involving a third party, I suggest that according to the affect theory of social exchange, arbitration – where there is very little jointness of task – should produce much less affect (which, in this case, would be negative) than mediation. Therefore, arbitration should lessen animosity toward the other disputant and enhance relational outcomes. In other words, despite arbitration's lower level of

procedural fairness, the process might be better for relational outcomes than mediation. Because there is less jointness of task in arbitration than mediation and because arbitrator's decision maker is someone external to the relationship, the other disputant and the relationship between disputants are less likely to be the target of the negative affect produced by a disappointing outcome. Of course, central to this process is the connection between affect and attribution.

The Role of Attributions

Throughout our daily lives we observe events and behavior, and the effects of those, and we ask ourselves why it is that things happen or why people do what they do. When we make inferences about the causes of such events and actions, we are making causal attributions. Attribution theory (Heider, 1958; Jones & Davis, 1965; Kelley, 1972) is the second social psychological theory under-represented in work on conflict resolution. For Lawler (2001), attributions are important because the emotion felt during exchange is more likely to be attributed to the relation if the exchange has high task interdependence. Individuals recognize their emotional state, search for a source of that emotion, and, with the salience of the relation in a mutual task, attribute the cause of the emotion to the relation (Lawler, 2001). Although significant, attribution is an important concern in conflict resolution for other reasons as well. The two key attributions are those regarding *blame for the outcome* (Is it my fault, the other disputant's fault, or the third party's fault that things turned out this way?) and *the causes of behavior* (Is it the process or the other disputant's personality that is leading her to act this way?). Both can significantly impact reactions individuals have to perceived injustice (Cohen, 1982; Homans, 1961; Shepelak, 1987; Utne & Kidd, 1980).

While recent research in social exchange has incorporated attributions in considerations of justice (Hegtvedt & Kilian, 1999; Molm et al., 2006), the majority of new research and theoretical development is in the area of organizational behavior. Organizational behavior, or OB, a dimension of organizational studies, draws heavily from social psychology as it explores individual and group dynamics in organizational life. Organizational behavior's interest in attributions includes both the sources and effects of attributions on employee, employer, and customer reactions to negative events and perceptions of organizational justice (e.g. Beugré, 2005; Conlon & Murray, 1996; Kim, Dirks, Cooper, & Ferrin, 2006; Shaw, Wild, &

Colquitt, 2003) – including distributive, procedural, and interactional justice (Cropanzano, Prehar, & Chen, 2002; Greenberg, 1990; Roch & Shanock, 2006).

In organizations, and in other areas of social life, attributions can be situational (i.e. external, attributed to aspects of the situation or surroundings) or dispositional (i.e. internal, stemming from personality or stable characteristics of self or other). These work in a hydraulic fashion – as situational factors increase in salience, dispositional attributions for outcomes or behavior decrease (Kelley, 1972). Although there is a strong tendency to make dispositional attributions about another's actions (Ross, 1977), it is reasonable to assume that attributing another disputant's actions or a disappointing outcome to external, or situational, influences would help mitigate his or her blame (Kim et al., 2006). These forces external to the disputants and their relationship are particularly important in the case of negative events because such events elicit more consideration of causal information than positive or neutral events (Folger, 1986; Kim & Smith, 2005; Wong & Weiner, 1981).

Research on justice and attributions suggests that in a situation where an individual fares less well than they think they deserve, as in most non-correspondent disputes, they will seek out a reason as to why this happened (Cohen, 1982; Hegtvedt & Johnson, 2000; Kidd & Utne, 1978). This is particularly true when they could have imagined a different scenario (Folger, 1986), as many disputants do who engage in alternative dispute resolution. To preserve a positive view of self, they will try to blame someone or something else for the disappointing outcome (Brockner, 2002; Shepelak, 1987). This could be the disposition of another or it could be something about the situation. Because searching for situational information is a cognitively strenuous activity, such attributions are most likely when external forces are a salient aspect of the event (Hassebrauck, 1987; Ployhart & Harold, 2004).

Attributions people make for the cause of their treatment and outcomes significantly impact their reactions to such events (Ployhart & Harold, 2004). While dispositional attributions lead to aggressive cognitions, situational attributions of blame flatten aggression (Beugré, 2005). Recent research in organizations suggests that situational explanations have other positive benefits as well. External explanations for transgressions increase trust and cooperation, decrease retaliation and withdrawal, and can improve justice judgments (e.g. Kim et al., 2006; Kim & Smith, 2005; Shaw et al., 2003). Also, when mitigating circumstances are clear *before* a wrongdoing there is less physiological arousal and negative affect than when

they are brought to light after the event (Beugré, 2005; Johnson & Rule, 1986).

While the recent organizational behavior research focuses on individuals' accounts of situational circumstances (i.e. excuses, explanations, justifications), the same rationale could be applied to a salient external force like third party intervention in a conflict resolution process. The more third party intervention and the less task interdependence, the more accessible a source of attribution or blame that is external from the two conflicting parties becomes to the participants. Blaming this factor that is external to the other disputant (the resolution process or the disposition of a different target, the third party) for the other disputant's behavior will lessen the likelihood that one would make negative dispositional attributions.

Attributions of blame for the outcome should shift as well. When a third party is responsible for determining a negative outcome, the disappointed individual will attribute responsibility to the third party or the process. The blame is taken off the other individual (Blount, 1995), and the third party or the dispute resolution process should shoulder the negative affective responses. Deflecting blame to a third party or the process should improve relational outcomes, lessen the post-dispute conflict, and enhance future interactions (Uine & Kidd, 1980).

In other words, task interdependence is negatively related to attributions of blame for behavior or the outcome that are external to the other disputant. For instance, in mediation, the divorcing couple will be responsible for the final outcome. This increases the likelihood that blame for behavior or events will be attributed internally, to the other disputants' disposition or the relationship between the disputants, which may have negative consequences if the outcome is disappointing. In arbitration, however, where the arbitrator makes the final decision, a divorcing husband might decide that his wife's request for a substantial amount of the settlement is a natural product of the arbitration process or that the fact she was actually awarded that amount as a result of the arbitrator's own bias.

Because of the self-serving bias, individuals take credit for good things that happen and place blame for bad things that occur (Miller & Ross, 1975). As a result, the husband in the above example would be unlikely to take responsibility for a disappointing outcome. Thus, if the husband were directly involved in the settlement process, as he would be in mediation, he might attribute both his wife's behavior and the unfair settlement to her personality or her contemptuous views of him. In arbitration, a self-serving attribution that does not include a disparaging view of the other disputant is possible because task interdependence is low.

Therefore, as illustrated in Fig. 1, arbitration, with lower task interdependence and with salient factors external to the disputants, should generate more external attributions for both the other disputant's behavior and the final outcome. This lessens the likelihood that the other disputant will shoulder blame for negative events and should result in more positive relational outcomes. Further, attributing the other disputants' behavior, or the outcome, to external forces like the arbitration process or the arbitrator will also lessen negative affect and the salience of conflict between disputants.

The Role of (Salience of) Conflict

It is important to consider the salience of conflict inherent in even the most procedurally just of resolution processes. Task interdependence likely increases salience of conflict. The more salient the conflict is in a situation – that is the more aware two disputants are of their opposed interests – the more likely that each disputant will view the process in a self-interested manner (Hegtvedt & Killian, 1999; Molm et al., 2003, 2006). In such situations fairness judgments become more egocentric, and individuals are more concerned with the comparison of their outcome to others' than with the absolute value of their own outcome (Thompson & Loewenstein, 1992). This leads to greater levels of dissatisfaction, with the outcome and with the other party. Further, the more salient the conflict, the more intent attributed to the other disputant (Hegtvedt & Killian, 1999). While situational attributions for outcomes or behavior should reduce the blame attributed to the offending party – lessening disapproval of, and anger toward, that individual – and decrease the level of conflict between the parties (Sitkin & Bies, 1993), recent research in social exchange suggests that third party intervention might reduce conflict in other ways.

Although social exchange research has yet to incorporate third parties (see Collett, 2006 for an exception), I argue that current theoretical developments in the area of conflict (Molm et al., 2006) are relevant to alternative dispute resolution. The more conflictual a relation seems, and the more competitive one considers an exchange partner, the more salient the conflict. Molm et al. (2003, 2006) document the salience of conflict in negotiated exchange, which is viewed as a procedurally fair and cooperative process (Lawler, 2001; Lawler & Yoon, 1993, 1996, 1998; Molm, Peterson, & Takahashi, 1999). This research suggests that the same attributes that make negotiation a structurally cooperative process – the back and forth nature of requests and offers, concessions necessary for agreements, and

joint decision making – also work to heighten the salience of conflict between exchange partners (Molm et al., 2006). The salience of conflict, in turn, leads to higher levels of negative affect (toward outcomes and exchange partners) in negotiated versus other forms of exchange (Molm et al., 1999, 2003, 2006; Schaefer et al., 2004).

Mediation shares many of negotiation's conflictual qualities, particularly mediation processes with minimal third party involvement. While mediation is designed to lessen the intensity of conflict in bargaining by eliminating direct negotiations between disputants, many of the conflict-heightening features of negotiation remain intact. In mediation, like negotiation, the two parties exchange offers and counter-offers in a back and forth process. Each counter-offer suggests a failed attempt at reaching an agreement, heightening the salience of conflict between disputants. The nature of agreements increases the salience of conflict as well, with the benefit to one so clearly coming at the concession of another (Hegtvedt & Killian, 1999; Molm et al., 2003). In mediation, like negotiation, there is a clear relationship between one disputant's gain and another's loss (Molm et al., 2006). Finally, in mediation, like in negotiation, actors' outcomes are easily compared, and unequal outcomes are perceived as an intentional consequence of an exchange partner's behavior – acts of commission (Molm et al., 2003, 2006).

Arbitration processes should reduce this conflict substantially, particularly because they are lacking in the cooperative, interdependent features discussed earlier with regard to the affect theory of social exchange (Lawler, 2001). First, disputants in arbitration interact with the arbitrator, not the other disputant. This limits any conflict-inducing interaction between them. Second, disputants are only allowed to make one proposal to the arbitrator, which he or she grants or does not, eliminating the back and forth process of mediation. There are no failed attempts at agreement in arbitration, only outcomes that might be perceived as just or unjust. Third, benefits for one come from the arbitrator's decisions, not the concessions of the other. Finally, in arbitration the disputants' positions seem opposed to the arbitrator, not one another. This should increase the focus on how the arbitrators' settlement benefited them, and lessen thoughts of how their share compared with the other disputants'.

In sum, the conflict disputants are addressing during alternative dispute resolution is not only what they brought with them but also the conflict brought about by the dispute resolution process. Task interdependence greatly increases the salience of this latter conflict, which has the potential of being higher in mediation than arbitration. The salience of this conflict can

also influence perceptions of fairness (distributive and interactional) directly and affect relational outcomes (Molm et al., 2006). In other words, in a process with lower task interdependence, like arbitration, the salience of conflict should be reduced, which, because conflict is negatively related to relational outcomes, should result in more positive relational outcomes than in mediation.

To summarize the theoretical model illustrated in Fig. 1, level of third party intervention in alternative dispute resolution should be positively related to relational outcomes. This is expected because third party intervention decreases task interdependence which, in turn, decreases negative affect, increases the likelihood of external attributions for the other disputant's behavior and the disappointing outcome, and reduces the salience of conflict. Each of these should increase perceptions of fairness of, and general positive regard toward, the other disputant, as well as ease future conflict and interactions between the conflicting parties.

CONCLUSION

The idea that arbitration, ostensibly a less procedurally fair process, could be more beneficial for disputing parties than mediation is the ultimate sociological irony (Anderson & Sharrock, 1983). However, it is a consideration that deserves further thought. Procedural justice took center stage in social psychological research on conflict resolution in the 1970s and has remained there because of its positive impact on perceptions of outcome fairness and on attitudes toward the third party. With the majority of disputes settled with alternative dispute resolution occurring between individuals who have continued contact after leaving the mediator's office or agreeing to contract terms, though, it is important for researchers and practitioners to turn their attention toward how procedural justice and third party intervention affects perceptions disputants have of one another.

Such relational outcomes are the focus of recent research in both organizational behavior and social exchange theory. Organizational behavior has experienced a significant growth of research on interactional justice, or fair treatment (Bies, 2002; Bies & Moag, 1986), and its positive effects for future interactions between individuals. There is a burgeoning attention to perceptions of interactional fairness in social exchange theory as well (Molm et al., 2006). In addition to these perceptions of fairness of exchange partners, exchange research is also exploring general positive regard and emotional responses between exchange partners (Lawler &

Yoon, 1993, 1996, 1998; Lawler et al., 2000; Molm et al., 2000, 2003, 2007), as well as their optimism about positive future interactions (Collett, 2006).

This chapter presents three social psychological theories that have potential in expanding research on the "relational effects" of third party intervention in conflict resolution – the affect theory of social exchange (Lawler, 2001), attribution theory (Heider, 1958; Jones & Davis, 1965; Kelley, 1972), and recent work on conflict in social exchange (Hegrevt & Kilian, 1999; Molm et al., 2006). However, there is further work to be done in social psychology to test the applicability of these to conflict situations both in the laboratory and beyond.

First, while Lawler and Yoon's work (1993, 1996, 1998; Lawler, 2001) calls attention to the potential benefits of affect and attribution, this line of inquiry should be further pursued in both social exchange and alternative dispute resolution to address negative affect and its implications for attributions and relationships as well. Mediation is not guaranteed to end in an agreement or to result in individuals following through with terms. Future research in this area should look at the effect of *perceived* fairness of agreements (as those who fare best may perceive their outcomes as less fair (Collett, 2006; Meli, 1991)) and failed agreements on affect and attributions. In addition, work should be done to include neutral third parties in the exchange processes explored in work on social exchange more broadly, but also in work on affect and social exchange.

Second, there is much more work to be done with regard to the effect of third party intervention on attributions. While a great deal of recent work in organizational behavior explores the potential benefits of external attributions, these attributions are explicitly articulated by one person to another (e.g. Kim et al., 2006; Kim & Smith, 2005; Ployhart & Harold, 2004; Shaw et al., 2003). In this chapter I assert that such external forces could be inferred by the salience of the third party intervention in the resolution process (Collett, 2006), but further research should test this directly. In addition, research must explore how third party presence affects the potential targets of attributions, particularly self-serving attributions, and the effects of internal and external attributions on emotion, conflict, and ongoing relations.

Finally, following the lead of social exchange research (Molm et al., 2006), there must be renewed attention to the importance of conflict in alternative dispute resolution. Mediation flourishes because people assume that it is less conflictual than arbitration or litigation. I argue that this is not necessarily true and that the mediation process has the potential to make conflict more salient between disputants than arbitration. It is important to

note that the mediation I refer to throughout this chapter is an abstract form and the ideas set forth here are not applicable to all mediation processes. There are mediation processes with the explicit aim to teach parties to deal with conflict and to establish the foundation for a harmonious post-dispute relationship. However, it should not be assumed that all mediation fits this bill or achieves these goals. Practitioners and researchers alike must recognize that conflict exists, not only between parties who seek to resolve disputes, but also in the process of dispute resolution, itself. Only when this conflict is recognized can it be effectively addressed.

To this end, future research must move beyond exploring how conflict going into the dispute affects the resolution process and also look to how the resolution process affects the salience of conflict between parties. Does a neutral third party exacerbate or ameliorate conflict between disputants, and how does increased intervention affect the salience of conflict? Research must also explore the effects of this conflict on perceptions disputants have of one another, the outcome, the process, and the third party, and how each of these impacts the ongoing relationship between the disputants.

In conclusion, this chapter opens up an interesting and important line of inquiry, the effect of third party intervention on relational outcomes. It also cautions against the proliferation of mediation without research into the benefits and drawbacks of such an approach, particularly for the individuals involved. Recent social psychological research and theory in affect, attribution, and conflict offers insight to this end, and should be extended to include situations with a neutral third party. In addition to this expanded focus in social psychology, it is time for research in alternative dispute resolution to move beyond perceptions of procedural justice and the positive effects of such perceptions and to explore perceptions disputants have of one another and the powerful effects that those perceptions have on life after the dispute.

NOTES

1. This chapter does not address distributive justice – the perceptions of fairness of outcomes (Adams, 1965; Homans, 1961; Jasso, 1980) – primarily because distributive justice's role in research on alternative dispute resolution has been dwarfed by an overwhelming focus on procedural justice. This is not to say that distributive justice is unimportant, as clearly it is (e.g. Barrett-Howard & Tyler, 1986). This chapter's main goal is not to argue that procedural justice is the only type of justice that matters in conflict resolution, but to move future work in conflict resolution toward new social psychological frameworks and concerns.

2. It is important to note that even Thibaut and Walker (1978) suggest that in instances of high conflict of interests, as in the vast majority of disputes resolved with ADR, arbitration would be a more beneficial process to all the parties involved than negotiation (i.e. bargaining) or mediation. They cite the distribution of process and decision control as key. Arbitration affords the disputants control over the process but assigns decision control to the third party, which is vital when the disputants are unlikely to be able to reach an agreement on their own.
3. This model is taken, in part, from Collett (2006). I thank Jody Clay-Warner and Karen Hegtvold for suggestions on this reformulation.
4. The theoretical model is only applicable in situations where there is a conflict of interests and there is no outcome that would mutually benefit the disputants. Instead, the benefit of one party only comes at the expense of the other.
5. Interactional justice (Bies, 2002; Bies & Moag, 1986) is specifically concerned with the quality and fairness of interaction between individuals (Cropanzano et al., 2002).
6. Melli (1991) and Collett (2006) actually found that the parties with the best settlements (measured in percentage of assets earned) were among the least satisfied with the settlement outcome.

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