

HEINONLINE

Citation: 95 Marq. L. Rev. 859 2011-2012

Provided by:

Klutznick Law Library / McGrath North Mullin & Kratz Legal Research Center



Content downloaded/printed from [HeinOnline](#)

Thu Dec 22 15:48:53 2016

- Your use of this HeinOnline PDF indicates your acceptance of HeinOnline's Terms and Conditions of the license agreement available at <http://heinonline.org/HOL/License>
- The search text of this PDF is generated from uncorrected OCR text.
- To obtain permission to use this article beyond the scope of your HeinOnline license, please use:

[Copyright Information](#)

WHAT WE TALK ABOUT WHEN WE TALK ABOUT NEUTRALITY: A COMMENTARY ON THE SUSSKIND- STULBERG DEBATE, 2011 EDITION

BERNIE MAYER, PH.D.*

I. INTRODUCTION

We have an incredible appetite for debating the role and meaning of neutrality in mediation. Mediators seem to be fairly clear about how to handle neutrality in practice, but confused in theory. That is, mediators are generally fairly clear about how to present their role, their commitment to impartiality, their structural independence, and the practical implications of how they define their role for how they approach their work. But when we discuss how to conceptualize neutrality, when we consider how thorough our commitment to neutrality can be, and when we debate whether such a commitment is even appropriate, we are often confused, inconsistent, and divided. Something is going on here beyond the need to clarify our ethical stance and our commitment to our clients. What does this discussion represent and what can we learn from this discussion about our identity as conflict professionals?

Perhaps the most renowned representation of this discussion has been the exchange between Josh Stulberg and Larry Susskind.¹ In their exchange, Susskind argued that mediators had a responsibility to insure that the outcome of mediation is fair and stable and that it lead to socially desirable outcomes and precedents.² Stulberg responded that the mediator not only had no such responsibility but also that any attempt to insure a desirable outcome would undercut the potential mediation offered to disputants and to society.³ As reported elsewhere

* The Werner Institute, Creighton University.

1. See generally Joseph B. Stulberg, *The Theory and Practice of Mediation: A Reply to Professor Susskind*, 6 VT. L. REV. 85 (1981); Lawrence Susskind, *Environmental Mediation and the Accountability Problem*, 6 VT. L. REV. 1 (1981).

2. Susskind, *supra* note 1, at 13–18.

3. Stulberg, *supra* note 1, at 86–87.

in this issue, Susskind and Stulberg revisited their classic discussion at a recent court-based-mediation conference held at Marquette University Law School in September 2011.⁴ I had the privilege of participating in this panel (moderated by John Lande⁵). I was impressed by the shelf life of this discussion, by the continued influence of Susskind and Stulberg's framing of the issue, and by their steadfastness in holding to pretty much the same positions that they articulated thirty years ago. But I do not think that their framing of the issue gets to the core challenge that the discussion of neutrality suggests, and I believe that such framing is misleading in some important ways. On one hand, mediators do not have the power to insure fair, stable, or socially desirable outcomes, and they generally do not have the power to prevent such outcomes either.⁶ On the other hand, mediators often alter the power dynamics in negotiations.⁷ There is no such thing as a level playing field, and as a result, mediators always have an impact, which is not neutral, on the process and the outcome.⁸ Were we not to have such an impact, we would not be of much value and our help would not be sought. The challenge is to be conscious, transparent, strategic, and wise in using our power to promote an ethical and constructive conflict engagement process.

II. WHAT DO WE MEAN BY NEUTRALITY?

To get at this, let us first consider what we mean by neutrality. There are many definitions of neutrality—and almost equally as many critiques of these definitions, especially as applied to the role of mediation.⁹ As I see it, neutrality as applied to mediation is composed of several different and sometimes contradictory elements. These

4. See generally Panel Discussion, *Core Values of Dispute Resolution: Is Neutrality Necessary?*, 95 MARQ. L. REV. 805 (2012).

5. John Lande is the Isidor Loeb Professor and Former Director of the LL.M. Program in Dispute Resolution at the University of Missouri School of Law.

6. See BERNARD S. MAYER, BEYOND NEUTRALITY: CONFRONTING THE CRISIS IN CONFLICT RESOLUTION 141 (2004) [hereinafter MAYER 2004] (arguing that mediators offer unrealistic guarantees to parties in a dispute, such as neutrality and equality).

7. See *id.* at 142–43.

8. *Id.* at 141–44.

9. See, e.g., Sara Cobb & Janet Rifkin, *Practice and Paradox: Deconstructing Neutrality in Mediation*, 16 LAW & SOC. INQUIRY 35 (1991); Kevin Gibson et al., *Shortcomings of Neutrality in Mediation: Solutions Based on Rationality*, 12 NEGOT. J. 69 (1996); Rachael Field, *Neutrality and Power: Myths and Reality*, ADR BULL. (Bond Univ. Dispute Resol. Ctr., Robina, Queensland, Austl.), May/June 2000, at 16.

include structure, behavior, emotion, perception, and intention. The structural element is about connection and conflict of interest. Are we connected by history, relationships, culture, gender, ethnicity, or in some other way to one or more of the parties to a dispute? Will we benefit in some significant way by a particular kind of outcome? Structural challenges to neutrality are sometimes obvious. If I am mediating an employment dispute related to a proposed termination of an employee and if I may be offered that same job if the termination goes through, no matter how fair-minded I am, I am not neutral. If I am mediating the divorce of a niece, I am not neutral. If I own shares in a company that is a party to a dispute I am asked to mediate, I am not neutral (at least in a structural sense).

Sometimes, the structural challenges are subtler. If I have been engaged to mediate disputes in which one of the parties is represented by a large and influential law firm with whom I have frequently worked, whereas the other side is represented by a small, struggling firm with whom I have never worked before and am unlikely to work with again, then there is a significant structural challenge to my neutrality. I potentially stand to lose an important source of referrals if I alienate one side, whereas the consequences of alienating the other side are minimal. But if we never take on cases where there is any potential challenge to our structural neutrality, then our scope of practice would be very limited, particularly if we work in small communities.

Connections abound in our lives. And clients often want us because they have heard of us or previously worked with us. When are the structural challenges to our neutrality so great that we need to recuse ourselves from a particular case, no matter how convinced we are that we can act in a fair and constructive way? There are plenty of answers to this question in different codes of professional conduct, but the bottom line seems to be that we should be transparent about our connections and exercise judgment about when we cannot ethically act as a third party. In other words, the boundaries of appropriate behavior are not clear.

Neutrality as behavior has to do with what we actually do that might favor one party at the expense of another party. Some behaviors are clearly gross breaches of neutrality, for example, when we reveal to one side what the undisclosed bottom line of another side might be or when we openly take sides on a contentious issue. But when we avoid eye contact with one party, allow one party to speak at far greater length than another, or focus on a subject that is important to one party but not on an issue that is important to another party, we are also behaving in a

way that is not neutral—that is, we are acting in a way that promotes the interests of one party over another party.

Of course, there is no way to avoid this situation entirely. Anything we do—or don't do—has an impact and often a differential impact on the parties involved. If we were to be so guarded in our behavior so as to absolutely minimize the potential of having such an impact, we would severely limit our ability to be effective. We are expected to prevent one party from dominating or intimidating another, to see to it that all relevant issues are addressed, to try to insure that each party has the opportunity to articulate their concerns, and to have their questions addressed. While these may seem like neutral actions, they often occur under circumstances when one party is more powerful or competent at negotiation than another, and our interventions, therefore, have the effect of empowering the less powerful party to some degree at the expense of the more powerful party. We can try to justify such an intervention by arguing that in the end this benefits everyone, but this is not always the case. Sometimes the more powerful party would do better, at least by their own standards, if we were to play a more passive role. At other times, we may actually advance the cause of the more powerful party by trying to adhere to a more neutral role. In a sense, our very attempt to be neutral is sometimes the source of non-neutral behavior. In other words, complete behavioral neutrality is not an option. All playing fields advantage some parties more than others, and all interventions or actions do the same.

Emotional neutrality, which is sometimes referred to as impartiality or lack of bias, is even more difficult to monitor.¹⁰ Part of what allows us to be effective involves our connecting with parties emotionally and being empathetic. We naturally have feelings about the situations and the parties—sometimes stronger, sometimes less so—and sometimes we have positive feelings toward one party and negative feelings toward another. We also find ourselves mediating issues about which we have strong opinions. For example, divorce mediators have all experienced cases where agreements were reached about the care of children that are not what we consider to be the best for the children or the families.

If I had to step aside from acting as a mediator every time I found myself more sympathetic toward one side than another or in disagreement in some way with the outcome emerging from the process,

10. See MAYER 2004, *supra* note 6, at 17, 29–30; CHRISTOPHER W. MOORE & PETER J. WOODROW, HANDBOOK OF GLOBAL AND MULTICULTURAL NEGOTIATION 419 (2010).

I would find myself without much work. It may be that I like one party more than another, that I am more concerned about that party's circumstances, that I can empathize with that party's point of view, or that I agree with that party's arguments. This does not mean that I express these thoughts openly or directly or that I act on them. But, nonetheless, they are there, and it is likely that I will be better able to monitor their impact on how I handle myself as a mediator if I am honest with myself about this situation than if I deny this reality.

Ironically, and I have heard this from many other mediators, the biggest challenge mediators may face to behaving in a fair way may be overcompensation for our less-than-impartial feelings. That is, if I am more sympathetic to one party than to another and if I like that party more, I may overcompensate and go well out of my way to make sure the needs of the other party are addressed, thereby doing a disservice to the party I am sympathetic toward.

We often talk about the perception of bias as opposed to its actuality. Neutrality is as much about perception as anything else. If we are perceived to be biased or non-neutral, then to a certain extent we are. We are often more concerned about acting in a way that will not be perceived as biased than acting in a way that is actually not biased. It is the perception that is key. But of course, this is an ephemeral criterion. If disputants are unhappy about an outcome, then it is easy for them to assume the process and the mediator have been unfair in some way. If we are overly concerned with this perception, we can be inhibited from acting in a responsible manner—for example, by helping people to articulate what their genuine choices are, fair or unfair though these may be. However, if we do not pay attention to the potential that we will be perceived as partial in some way, we may not only undercut our effectiveness, but we may be ignoring one of the most important ways of evaluating our own approach.

Neutrality as an aspiration may be the clearest and most meaningful way of understanding this concept.¹¹ When we commit to impartiality, neutrality, or evenhandedness, we are essentially expressing an aspiration rather than a clearly definable commitment. We are saying that our intentions are to be fair, to be evenhanded, and to act in a neutral manner without bias—whatever specific meaning we may give to those terms. We can control the most egregious or obvious expressions

11. See generally BERNARD S. MAYER, *THE DYNAMICS OF CONFLICT: A GUIDE TO ENGAGEMENT AND INTERVENTION* (2012).

of bias or partiality, but we cannot offer complete neutrality both because the term itself is confusing and because it is impossible to adhere to a strict interpretation of neutrality, no matter which element we look at. Nonetheless, neutrality as an aspiration is not meaningless, at least not in practice. Clients expect us to be motivated, to act in a fair way, and to be attentive to the legitimate concerns of all parties. Our commitment to trying to do just that is an important foundation of our connection with our clients. That we cannot actually act in a way that completely actualizes this commitment does not make the aspiration to do so unimportant.

III. ARE WE VALUED FOR OUR NEUTRALITY?

Conflict interveners often operate under the assumption that our neutrality is essential to why we are valued and why we are hired.¹² But in the end, we are not hired to be neutral, impartial, fair, or unbiased, although people certainly do not want us to be unfair. We are hired to help people engage in a constructive interaction, usually in the form of a negotiation. Disputants want our help communicating; understanding each other; analyzing a conflict; articulating their concerns, ideas, and arguments in support of their proposals; developing options; evaluating options; and finding agreements where agreements are possible. If we do this in a way that is effective and is perceived as competent and respectful to the disputants, we are fulfilling our most fundamental commitment. Being neutral is not the core of what people are asking for—and it is a very culturally relative concept in any event. In some contexts, being perceived as neutral is a necessary precondition to being utilized, but in many cultures someone who is neutral and disconnected to a conflict will not be viewed as an appropriate third party.¹³

There is often an inconsistency between what clients genuinely want and what we offer. Or put a different way, we assert that clients should rely on our services for reasons that are sometimes at odds with what clients are looking for. We essentially say that disputants should come to us because we will offer an impartial, confidential service aimed at resolving disputes in an amicable and fair way. We will do so by conducting a private and confidential communication process in which everyone will be given the opportunity to speak for themselves, decide

12. MAYER 2004, *supra* note 6, at 29.

13. See MOORE & WOODROW, *supra* note 10, at 419.

what is a wise course of action for each of them to follow, and arrive at integrative solutions that maximize the degree to which everyone's needs are met. Disputants, on the other hand, tend to want to be heard in a meaningful forum, to be acknowledged for the justice of their point of view and for what they have endured, to have their problems solved, to be labeled as honorable and reasonable, and to do this all in a socially legitimate and safe setting.¹⁴ These are not always contradictory approaches, but they often are. We are in essence asking people to give up something very important to them, right at the outset of our work with them, and that is the potential to have their grievance heard in a powerful and socially sanctioned public forum. Often this sacrifice is essential to motivating other parties to come to the table. Parties agree to do this not because they see the great worth of our neutrality or communication skills but because the alternative paths they might take are fraught with other kinds of problems (cost, time, uncertainty, toxicity, and intimidation). In this context, our assertion of our neutrality and our effectiveness at conducting problem-solving forums, while not necessarily at odds with what clients want, does not address what is most important to them.

I am not saying that our commitment to confidentiality and fairness is not important; instead, I am saying that the focus on neutrality itself derives more from concerns that we articulate and perpetuate than from the essential needs or desires of our clients. We are concerned about neutrality because it helps us identify who we are and distinguish ourselves from other interveners. This identity and distinction is often more important to us than to our clients. So why is it so important to us?

IV. NEUTRALITY AS A SOURCE OF IDENTITY

I believe the debate about neutrality is in essence a discussion of identity. This is why the debate between Susskind and Stulberg continues to be gripping. The argument still has traction thirty years since it originally took place because it addresses our identity as a field and as professional conflict interveners, not because of its articulation of essential ethical dilemmas. What Stulberg and Susskind have each identified, whether intentionally or not, is in essence a statement of who we are not. We are not a field that can insure or even go very far to

14. See generally MAYER 2004, *supra* note 6.

promote—at least directly—a fair, stable, efficient, and wise outcome (four criteria that Susskind proposed during the Marquette panel¹⁵) to disputes. We can set up procedures, convene forums, set the tone, and facilitate a process that can allow such outcomes to develop as the circumstances and parties allow, but the effort to promote those kinds of outcomes cannot be the defining purpose and characteristic of our field. We simply do not have the power or the substantive expertise to produce or guarantee such outcomes.

We are also not fundamentally neutral facilitators of a justice event, to use Stulberg's formulation from the same panel.¹⁶ As I have discussed, neutrality is not our primary defining characteristic. We are not completely or in some respects even significantly neutral, even as to the outcome (which is the type of neutrality that Stulberg emphasizes),¹⁷ except in the aspirational sense. And yet we do offer important services that people want and quite often need. The core of what we offer is our most significant source of identity.

As a field of practice, our professed identity has been partly borrowed, partly market-based, and often derived from defining criteria that are not completely convincing. We have borrowed from law, counseling, negotiation, business, economics, international relations, labor relations, anthropology, sociology, theology, peace studies, and education. There is nothing wrong with that. In fact, that is one of our strengths. Some borrowing is necessary for a field of practice to be relevant, and many fields borrow just as widely as we do—such as counseling, social work, and peace studies. But the fact that we have not always or ever been clear about the essence or roots of our intellectual foundation accentuates the challenge of the identity discussion. We are market-based in that we have defined our practice to a large extent from what the market for our services would support. These defining criteria, as we have discussed, are often artificial or at least disconnected in some respects from what we actually do or are asked to do. Our focuses on confidentiality, impartiality, the third-party neutral role, and reaching agreements seem to me to be tactics or stances we can take, but not essential defining characteristics of who we are.

So it is not so hard to say what does not define us. But what does? Or as we might say, if neutrality, mediation, confidentiality, and

15. Panel Discussion, *supra* note 4, at 815.

16. *Id.* at 810–11.

17. *Id.* at 811.

resolution are our positions, what are our interests? I suggest three different elements of identity that the Susskind–Stulberg¹⁸ debate has raised and that continue to give it traction: our fundamental purpose, our knowledge base, and the social impact of what we do.

A. *Our Fundamental Purpose*

Conflict interveners have many different visions of their essential purpose. For some, our *raison d'être* are to resolve conflicts, to forge agreements, and to bring negotiations to effective conclusions. For others, it is to promote a transformation of relationships and people, and for others some it is about building community and contributing to a more just world. We have many different motivations for what we do and many approaches to how we accomplish the tasks that we have set for ourselves. The work of a transformative mediator and the work of an evaluative mediator are so different that it is hard to understand them as being in the same field sometimes.¹⁹ What has seemed to hold these disparate approaches together is our understanding of our role as third-party neutrals who work with people in conflict. So deconstructing the concept of neutrality—or challenging its ethical basis, as Susskind has done²⁰—seems to attack the one unifying principle that has held us together. But of course we always have been both more and less than a field of third-party neutrals. For one thing, much of the most valuable work we have done has not occurred from a neutral stance but from what I have characterized as ally roles—as advisers, coaches, and advocates, for example.²¹ We have also functioned as system designers, administrators, trainers, evaluators, and in many other roles where we have not even purported to be third parties, much less neutral. And, as we have seen, hanging too much of our identity on the commitment to neutrality is problematic because the concept itself is ambiguous.

The Susskind–Stulberg interchange goes right at the question of fundamental purpose. Susskind argues our purpose is to get fair, stable,

18. I have intentionally changed the order of who I identify first in referring to the debate. In the initial debate, Susskind wrote his article and Stulberg wrote the response. See *supra* notes 1–3 and accompanying text.

19. For a rich presentation of different approaches to mediation in the family context, see *DIVORCE AND FAMILY MEDIATION: MODELS, TECHNIQUES, AND APPLICATIONS* (Jay Folberg et al. eds., 2004).

20. Panel Discussion, *supra* note 4, at 815. Susskind argues that mediators should be fair, efficient, stable and wise, rather than neutral. *Id.*

21. MAYER 2004, *supra* note 6, at 222.

efficient, and wise agreements, and that purpose should govern whatever stance we take toward neutrality.²² Stulberg argues that our essential purpose is to provide “a systematic platform and framework for promoting not only self-determination but also personal responsibility. It’s the chance to work something out, and not, as we so often want to do, let somebody else do it for us.”²³ The debate here is not really about the wisdom, nature, or possibility of neutrality, but about fundamental purpose.

I do not believe either formulation gets at the essential purpose that genuinely unites and defines the conflict intervention field because both still characterize that purpose in terms of a third-party role and the values and ethics implicit in that role. In characterizing what our field is about, rather than trying to identify ourselves by the particular roles we play in conflict, we should focus on the purpose of our intervention. As I see it, the defining purpose of our field, which I refer to as the conflict intervention field,²⁴ is to help people deal with conflict productively and constructively—to assist people with constructive engagement in conflict or, when advisable, constructive avoidance of conflict. We do this from many different stances, including the third-party stance, but we ought not to rely solely on a particular set of roles to define who we are. And if we are not necessarily acting from a third-party role, we are certainly not always acting as neutrals, even in the aspirational sense. We are informed by many values—including self-determination, social justice, and empowerment—but these too are not the essential defining features of our purpose (although they certainly guide us in how we pursue that purpose).

B. Our Knowledge Base

Any attempt to define ourselves by what we do—by our methodologies, procedures, or systems of intervention—will inevitably run into the incredibly broad variety of approaches that we take. This is true of psychotherapy, education, organizational development, architecture, law, and perhaps all disciplines with a strong practice component. It is certainly true of conflict intervention. But we can, perhaps, identify some elements of a common knowledge base that define our field. While there are areas of particular knowledge we need

22. Panel Discussion, *supra* note 4, at 819–21, 824.

23. Draft of Panel Discussion, *supra* note 4, at 5–6 (on file with law review).

24. Panel Discussion, *supra* note 4, at 815.

depending on our particular role and area of expertise, as a field we can identify certain common areas of knowledge that we either have or should seek to have. These common areas include conflict dynamics, negotiation, communication, power dynamics, cultural practices, systems theory, intervention processes, and intervention roles.²⁵

The meaning of neutrality as a commitment and an intervention tool has to be understood through the lens of these frameworks in order for us to really grasp its meaning for our work and our way of thinking. For example, how does the entry of a third party who aspires to neutrality affect the dynamics of a conflict and how can this be explained through systems theory? While we might be tempted to equate neutrality with the absence of power, this is of course not the case. Taking a neutral stance can be a very powerful move. By purporting not to have a desire to affect the outcome, we often position ourselves to have a very significant impact on what occurs. This is ironic, perhaps, but not surprising. Sometimes, the less power we try to obtain or to exert, the more we end up having.

Stulberg and Susskind do not directly address our knowledge base, but their approaches have significant implications for what that knowledge base ought to be, none of which are contradictory to what I have indicated above. However, each of their approaches suggests an emphasis on a somewhat different element of what we need to know. Susskind's approach points to the importance of substantive knowledge (how else could we evaluate an agreement) and of familiarity with system and power dynamics.²⁶ Stulberg's argument underlines the importance of our knowledge of communication, negotiation, and process.²⁷ I suspect that each would argue that all of the above are important, but I also suspect that in practice they would focus on those areas that are most conducive to carrying out the fundamental purpose of conflict intervention as they see it.

C. Our Social Impact

Any field's identity is wrapped up to some extent with what impact it has on society and on the larger social good. Even purely abstract fields of endeavor, such as mathematics or philosophy, ultimately have to

25. See MAYER 2004, *supra* note 6, at 292–93.

26. Panel Discussion, *supra* note 4, at 808–09. It would be impossible to establish a fair, efficient, stable, and wise outcome without being familiar with these issues.

27. Stulberg, *supra* note 1, at 98–99.

contend with this question, and the conflict field certainly does as well. Our engagement with this question has been intensified by the works of writers such as Laura Nader,²⁸ Tina Grillo,²⁹ and Owen Fiss,³⁰ who have directly suggested that the Alternative Dispute Resolution (ADR) movement has had some very significant negative consequences. Both Susskind and Stulberg are concerned about the impact of what we do, but come to different conclusions. Susskind argues that, unless we directly commit to achieving socially desirable ends, both through the process we set up and through our attention to the agreements reached in those processes, we can easily become parties to socially undesirable or unjust results.³¹ For us to have the very positive social impact, which he clearly believes we have had and can have,³² we must travel outside the comfort zone of neutrality and address the wisdom of the outcome. For Stulberg, the very positive and powerful social impact we have had requires that we view mediation as a “justice event,” which requires us to be neutral about outcome.³³

I have written about this same issue as well, and I have argued that conflict intervention (and indeed all professions) is both an agent of social change and of social control.³⁴ This is a defining feature of our existence as intellectual institutions. We cannot escape this tension, but we can account for it and be conscious of it. We can be alert, for

28. Laura Nader, *Controlling Processes in the Practice of Law: Hierarchy and Pacification in the Movement to Re-Form Dispute Ideology*, 9 OHIO ST. J. ON DISP. RESOL. 1, 3–10 (1993).

29. Trina Grillo, *The Mediation Alternative: Process Dangers for Women*, 100 YALE L.J. 1545, 1549–50, 1605, 1610 (1991).

30. Owen M. Fiss, *Against Settlement*, 93 YALE L.J. 1073, 1075–76, 1078, 1082, 1085–86 (1984).

31. Panel Discussion, *supra* note 4, at 809–10. For example, at the symposium, Susskind said,

I don't think you can say: Don't look to me if the parties don't show up, [and] don't look to me to be responsible for the implications of inequalities between the parties. . . . If the parties start to talk, and it's clear from the way they're talking that someone [or some group] not present is going to be adversely affected, wouldn't you say: Gee they should probably be represented at the table, too.

Draft of Panel Discussion, *supra* note 23, at 105. He feels we have to intervene to make sure that unrepresented parties are brought to the table. Panel Discussion, *supra* note 4, at 809–10

32. Panel Discussion, *supra* note 4, at 814–15. Susskind argues that mediators, by constructing a good process, contribute to a good outcome, which he defines as one that is fair, efficient, stable, and wise. *Id.*

33. *Id.* at 811.

34. MAYER 2004, *supra* note 6, at 167.

example, to the possibility that our intervention, rather than being empowering, interferes with relatively weak parties getting access to sources of power that could genuinely help them meet their needs and that are realistically available to them. If we find ourselves in such a situation, we may well decide not to continue. Realistically, however, the calculation is never so straightforward. People have to make choices about competing routes—about how much to emphasize a cooperative versus a competitive approach, for example—without knowing for sure what the implications of each will be over time. And we cannot be sure either. I have no doubt that there are cases that I have mediated in which one of the parties would have been better off in the long run had they chosen a more adversarial approach, although I cannot identify for sure which cases these are. But I am also convinced that the cumulative effect of our work, particularly when we build in structural safeguards (e.g., screening for domestic violence) and when we are open with our clients about the pros and cons of entering into a particular process, is fundamentally empowering and supportive of social progress.

Still, we always need to question this conviction as a field both because others have done so and because it is important for us not to take the social value of what we do for granted. By debating the impact of what we do and by considering how our essential assumptions about who we are affect this impact, we accomplish two essential things. First, we continue the process of professional-identity formation. Second, we develop more sophisticated approaches to assessing the impact of our work. This, I believe, is the essential contribution of the Susskind–Stulberg interchange. With this dialogue, they have provided us with an anchor and a framework for such a discussion, and they have also provided an impetus for us to continue engaging in it.

V. CONCLUSION

On my very first day of orientation to social work school at Columbia University in 1968, the debate began about whether social work was a “band-aid” that essentially allowed fundamentally exploitative systems to continue or whether it was a genuine source of empowerment that promoted a more just and equal society. This debate, while at times seeming trite and old, continues to this day and has been essential to the growth and identity formation of social work. And of course, social work is both. In a sense, the debate about neutrality and the responsibility of the conflict intervener for insuring a just outcome is our analogy to this. And we could almost use the same language and come to the same conclusion.

When we talk about neutrality, we are talking about who we are, what our purpose is, what our impact on the world is, and how we understand the work that we do. In other words, we are talking about our identity. I hope, however, that we do not let this discussion of neutrality become the primary driving force of the identity discussion that all fields need to have. We are more than third-party conflict resolvers, and so, the neutrality discussion as a source of identity formation limits us. I hope we can instead focus on the question of the purpose that motivates us when we intervene in conflict and the fundamental assets we bring to such intervention. I think it is time to lay the Susskind and Stulberg debate to rest, or maybe we can dust it off every once in a while to see how we currently understand it. I think it has served its purpose, and its time has gone. We are not hung up about neutrality. We are grappling with more fundamental issues. That's good. I think Stulberg and Susskind would agree.